

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

THE FOREIGN JURISDICTION AND
EXTRADITION ACT, 1879,

AND

THE EXTRADITION (INDIA) ACT, 1895,

WITH NOTES.

CALCUTTA -
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.
1897.

CALCUTTA:
GOVERNMENT OF INDIA CENTRAL PRINTING OFFICE,
8, HASTINGS STREET.

INTRODUCTORY NOTE

IN England foreign jurisdiction and extradition are wholly distinct subjects, having no point of contact. They are dealt with by distinct sets of statutes. The subject of foreign jurisdiction has been ably treated by the late Mr W E Hall in his *Foreign Jurisdiction of the British Crown*, and the subject of extradition is dealt with by Sir Edward Clarke in his well known treatise on the *Law of Extradition*.

But in India our external relations are mainly concerned with Native States under the suzerainty of Her Majesty, enjoying varying degrees of subordinate sovereignty. Their territories are interlaced with ours, and the questions of foreign jurisdiction and extradition are closely interwoven. A reprint of the British Indian Acts relating to these questions, with the addition of explanatory notes, may perhaps be useful to those who have to administer those laws.

By way of appendix I have added (1) the Statements of Objects and Reasons to the various Bills which have now become law, (2) an important letter from the Government of India to the Colonial Secretary, Straits Settlements, setting forth the general principles which regulate extradition between British India and the Native States of India, and (3) the provisions of the Prisoners Acts, 1871 and 1891, which provide for the transfer of prisoners from jails in Native States to British territory.

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THE FOREIGN JURISDICTION AND EXTRADITION ACT, 1879,

(ACT No XXI of 1879.)

AS AMENDED BY SUBSEQUENT LEGISLATION.

Statement of Repeals and Amendments.

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SECTION 6 AMENDED	.	.	.	ACT XII of 1891.
SECTIONS 8, 11, 12 AND 13 AMENDED AND SECTIONS 12A, 12B, 12C AND 17A ADDED	.	.	.	ACT V of 1890.

The following changes have been made in reprinting the Act —

- (1) repealed matter has been omitted, explanatory notes being inserted ;
- (2) amendments have been inserted in their proper places with explanatory foot-notes ;
- (3) references to repealed Acts have been altered as directed by the enactment effecting such repeal, explanatory foot notes being inserted,
- (4) notes, historical and critical, have been inserted in different places, the usual foot notes have been expanded, and some appendices containing useful information for purposes of reference have been annexed,
- (5) the number and year of each Act referred to in the text have been noted on the inner margin,
- (6) section numbers occurring in the text have been printed in figures instead of in words,
- (7) the headings to the pages have been amplified, and
- (8) a table of contents has been added.

THE FOREIGN JURISDICTION AND EXTRADITION ACT, 1879,

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- 3 Interpretation-clause

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- 4 Exercise of powers of Governor General in places beyond British India, and delegation thereof.
5. Notification of exercise of delegation of such powers
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- 12 Direction and execution of warrant.

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SECTIONS

- 12A. Power to Political Agent to direct security to be taken, and procedure thereon.
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- 14. Requisitions for extradition by the Executive of any part of British dominions or Foreign Power.
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THE SCHEDULE.

ACT No. XXI OF 1879[*].

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 14th November, 1879)

An Act to provide for the trial of offences committed in places beyond British India and for the Extradition of Criminals.

[As modified up to the 1st May, 1896.]

WHEREAS by treaty, capitulation, agreement, Preamble
grant, usage, sufferance and other lawful means the Governor General of India in Council has power and jurisdiction within divers places beyond the limits of British India; and whereas such power and jurisdiction have, from time to time, been delegated to Political Agents and others acting under the authority of the Governor General in Council; and whereas doubts having arisen how far the exercise of such power and jurisdiction, and the delegation thereof, were controlled by and dependent on the laws of British India, the Foreign Jurisdiction and Extradition Act, 1872 [°], was passed to remove such doubts, and also to consolidate and amend the law relating to the exercise and delegation of such power and jurisdiction, and to offences committed by British subjects beyond

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[*] Act XXI of 1879 has been declared in force in—

The Southal Parganas by Reg. III of 1872, s. 9, as amended by Reg. III of 1886 [Bengal Code, Vol. I, Ed. 1889, p. 597];

Upper Burma generally (except the Shan States) by Act XX of 1886, s. 6 [Burma Code, Ed. 1889, p. 364];

British Baluchistan by Reg. I of 1890, s. 3 [Baluchistan Code, Ed. 1890, p. 63]; and

Angul and the Khondmals, Reg. I of 1891, s. 3

SECTIONS.

- 12A. Power to Political Agent to direct security to be taken, and procedure thereon.
- 12B. Arrest on breach of bond to appear.
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[*] Act No. XXI of 1879, s. 2, sub-s. 1, as amended.

Angul and the Khondmals, Reg. I of 1894, s. 3

It has been declared, by notification under the Scheduled Districts Act, 1874 to be in force in the Districts of Hazaribagh, Lohardogga and Manbhum and Pargana Dhalbhum and the Kolhan in the District of Singhbhum [Gazette of India, 1881, Part I, p. 504]

[^b] Act XI of 1872 is repealed by s. 2 of this Act.

(Chapter I.—Preliminary.—Section 1.)

beyond the limits of British India, and to the extradition of criminals; and whereas it is expedient to repeal that Act and re-enact it with the amendments herein-after appearing; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title

1. This Act may be called “The Foreign Jurisdiction and Extradition Act, 1879”:

Extent

It extends to the whole of British India; to all Native Indian subjects of Her Majesty beyond the limits of British India; and

to all European British subjects within the dominions of Princes and States in India in alliance with Her Majesty;

and it shall come into force on the passing thereof.

Commencement
Saving of
other laws
and of
treaties.

But nothing contained in this Act shall affect the provisions of any law or treaty for the time being in force as to the extradition of offenders; and the procedure provided by any such law or treaty shall be followed in every case to which it applies.

Note.

This section reproduces section 1 of the repealed Act XI of 1872, with the addition of the clause as to treaty engagements. It defines the operation of the Act as an Act of the Indian Legislature, *i.e.*, the C

2. It is to be

Legislature and

not co-extensive,

any Courts may be ousted as regards particular places or particular persons; thus the

exempt
the ap-
ve juris-

es, the Courts
the jurisdic-

tion of the Indian Legislature, *e.g.*, in the case of offences committed

issuable by virtue of laws made by the Governor-General in Executive Council, which would not be reached by an ordinary Court, e.g., military, to extend competent instead of Sir H.

Mayne's Minutes, p. 34.

5 Under these conditions it may be well to examine the powers of the Indian Legislature as such. Its powers are wholly derived from Statute, that is to say, Acts of the Imperial Parliament.

6. In a case where the validity of Act XXII of 1869 (relating to the Garo Hills) was questioned and upheld, the Privy Council say—

Powers of Indian Legislature

"The Indian Legislature has powers expressly limited by the Act of the Imperial Parliament which created it, and it can of course do nothing beyond the limits which circumscribe these powers. But, when acting within these limits, it is not in any sense an agent or delegate of the Imperial Parliament, but has, and was intended to have, plenary powers of legislation as large, and of the same nature, as those of Parliament itself. The established Courts of

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7. The Foreign Jurisdiction and Extradition Acts, 1879 and 1896, extend to the whole of British India as territorial laws, and also to specified persons outside British India as personal laws.

British India

8. Power to legislate for all Courts and "for all persons, British or Native, foreigners or others," in the Indian territories of His Majesty was given by section 43 of the Government of India Act, 1853 (3 & 4 Will. 4, c. 85), and this power is now continued

* See these questions exhaustively discussed in *Mayne's Criminal Law of India*, Part II, Chap. II. As to procedure, including evidence, see *Empress v. Barton* (1850), 1 L. R. 16 Ca. 23.

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continued by section 22 of the Indian Councils Act, 1861 (24 & 25 Vict., c 67).*

9 By section 1 (8) of the General Clauses Act (I of 1868), unless there be something repugnant in the subject or context, "*British India* shall mean the territories for the time being vested in Her Majesty by the Statute 21 & 22 Vict., c 106"†

10 The expression "*British India*," so defined, includes the land down to low-water mark, and would ordinarily include the territorial waters of British India, though not, of course, the high seas beyond ‡ Accordingly the Bombay High Court held in 1871 that the provisions of the Penal Code applied to offences committed in territorial waters § But the Territorial Waters Jurisdiction Act, 1878 (41 & 42 Vict., c 73), which applies to the whole of the Queen's dominions, has been framed without reference to the powers of the Indian Legislature, and it seems that, so far as the offender is not a Native Indian subject, he must be punished in accordance with English, and not Indian, law,|| and the Court by which he is to be tried must be determined by the various and perplexing British Statutes which confer Admiralty jurisdiction—see Mayne's *Criminal Law of India*, Part II, Chap 2

11 As regards the land, the limits of British India are not always defined by metes and bounds, and the partition of sovereignty between the British Government and Native States sometimes gives rise to difficulty, see, for instance, a discussion as to the status of the Tributary Mahals of Orissa in *Empress v Kehsub Mahajun* (1882), I. L. R. 8 Cal 985, and *Re Bichitranund* (1889), I. L. R. 16 Cal 667 It is now settled that the Tributary Mahals are not included in British India As to cession of British territory, see the *Bhownugger* case (1875), L. R. 3 I. A. 102, and Act XX. of 1876, and *Indian Political Practice*, Vol 2, Chap 8, Field's *Law of Evidence*, Ed 5, page 514

12 So also, in cases of cession, questions may arise as to the status of States and railway lands when a cession is made by the British Government The question must probably be determined by reference to the documents conferring sovereignty or jurisdiction,

* See these sections compared and commented upon in *Regina v Elmstone* (1870) 7 Bom Cr Ca. at pages 106 107, and note the amendment introduced by section 3 of the Indian Councils Act, 1892

† By virtue of the Short Titles Act 1892 (55 Vict c 10) the 21 & 22 Vict., c 106 may now be cited as the Government of India Act, 1858 Com-
monwealth of India Act, 1858

(Chapter I.—Preliminary.—Section 1.)

jurisdiction, as interpreted by user of the rights so conferred. When full sovereignty has been ceded, such lands may probably be regarded as isolated portions or extensions of British India. But, when jurisdiction only has been ceded, the subordinate sovereignty is not affected, and an Act which extends to the whole of British India does not extend to them *proprio vigore*. Thus in *Re Hayes* (1888), L. R. 12 Mad. 39, the Madras High Court held that the civil and military station of Bangalore was not British territory, but a part of the Mysore State, and that therefore the Code of Criminal Procedure was in force there by virtue of the executive orders of the Governor General in Council and not by virtue of the Act itself.

13. Formerly it was the practice, when a railway was extended into Native State territory, to require a cession of sovereignty, but of late years it has been the practice to require only a cession of "full jurisdiction" or "full civil and criminal jurisdiction."

14. *Prima facie* all British legislation is territorial, and the presumption applies with increased force to the powers of subordinate Legislatures.* The powers of the Indian Legislature to deal with offences and offenders outside British India must therefore be rested on the express terms of Imperial enactments.

Extra-territorial powers of Indian Legislature

15. By section 1 of the Foreign Jurisdiction Act, 1890 (53 & 54 Vict., c 37), "it shall and may be lawful for Her Majesty to hold, exercise and enjoy any jurisdiction which Her Majesty now has or at any time hereafter may have within a foreign country in the same and as ample a manner as if Her Majesty had acquired that jurisdiction by cession or conquest of territory." But the powers under that Act are exercised by Orders in Council, and have not been conferred on the Indian Legislature. Thus, though any deficiency in Indian powers might be supplemented by an Order in Council, the actual powers of the Indian Legislature must be sought in other Acts of Parliament.

16. By section 22 of the Indian Councils Act, 1861 (24 & 25 Vict. c 67), the Governor General in Legislative Council is empowered to make laws for all persons in British Indian territory, "and for all servants of the Government of India within the dominions of Princes and States in alliance with Her Majesty"†

Servants of the Crown in India.

17. By

* See *Hardcastle on the Construction of Statutes* Edition 2, page 456. So too is jurisdiction, *Gurdial v. Rajah of Faridkot* (1894) 1 L. R. 22 Cal. at p. 234, Privy Council. But this view is not accepted by other nations.—*Hall's International Law* Ed. 3 p. 206.

† For the ratification of this provision see *Gurdial v. Rajah of Faridkot* 1894) 1 L. R. 22 Cal., at page 239, per Lord Selborne.

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10. The expression "*British India*," so defined, includes the land down to low-water mark, and would ordinarily include the territorial waters of British India, though not, of course, the high seas. The High Court held in 1871 that the provisions of the Act applied to offences committed in territorial waters §. But the Territorial Waters Jurisdiction Act, 1878 (41 & 42 Vict., c. 73), which applies to the whole of the Queen's dominions, has been framed without reference to the powers of the Indian Legislature, and it seems that, so far as the offender is not a Native Indian subject, he must be punished in accordance with English, and not Indian, law,|| and the Court by which he is to be tried must be determined by the various and perplexing British Statutes which confer Admiralty jurisdiction—see Mayne's *Criminal Law of India*, Part II, Chap. 2.

11. As regards the land, the limits of British India are not always defined by metes and bounds, and the partition of sovereignty between the British Government and Native States sometimes gives rise to difficulty, see, for instance, a discussion as to the status of the Tributary Mahals of Orissa in *Empress v. Rani of Amritsar* (1859), 10 M. & W. 85, and *Re Bichitranund* (1870), 10 M. & W. 85. It is now settled that the Tributary States are not British territory. As to cession of British territory, see the *Bhowanuggur* case (1875), L. R. 3 I. A. 102, and Act XX of 1876, and *Indian Political Practice*, Vol. 2, Chap. 8, Field's *Law of Evidence*, Ed. 5, page 514.

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† For the rationale of this provision see *Gurdial v Rajah of Faridkot* 1894) I. L. R. 22 Cal., at page 239 per Lord Selborne.

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11. As regards the land, the limits of British India are not always defined by metes and bounds, and the partition of sovereignty between the British Government and Native States sometimes gives rise to difficulty, see, for instance, a discussion as to the status of the Tributary Mahals of Orissa in *Empress v. Kehsub Mahajan* (1882), I. L. R. 8 Cal 985, and *Re Bichitranund* (1889), I. L. R. 16 Cal 667. It is now settled that the Tributary Mahals are not included in British India. As to cession of British territory, see the *Bhownugger* case (1875), L. R. 3 I. A. 102, and Act XX of 1876, and *Indian Political Practice*, Vol. 2, Chap. 8; Field's *Law of Evidence*, Ed. 5, page 514

12 So, again, perplexing questions may arise as to the status of British cantonments in Native States and railway lands when a railway traverses a Native State The question must probably be determined by reference to the documents conferring sovereignty or jurisdiction,

* See these sections compared and commented upon in *Regina v. Elmitons* (1870) 7 Bom. Cr. Cas., at pages 106 107, and note the amendment introduced

(Chapter I.—Preliminary.—Section 1.)

jurisdiction, as interpreted by user of the rights so conferred. When full sovereignty has been ceded, such lands may probably be regarded as isolated portions or extensions of British India. But, when jurisdiction only has been ceded, the subordinate sovereignty is not affected, and an Act which extends to the whole of British India does not extend to them *proprio vigore*. Thus in *Re Hayes* (1888), L. L. R. 12 Mad 39, the Madras High Court held that the civil and military station of Bangalore was not British territory, but a part of the Mysore State, and that therefore the Code of Criminal Procedure was in force there by virtue of the executive orders of the Governor General in Council and not by virtue of the Act itself.

13 Formerly it was the practice, when a railway was extended into Native State territory, to require a cession of sovereignty, but of late years it has been the practice to require only a cession of "full jurisdiction" or "full civil and criminal jurisdiction."

14 *Prima facie* all British legislation is territorial, and the presumption applies with increased force to the powers of subordinate Legislatures.* The powers of the Indian Legislature to deal with offences and offenders outside British India must therefore be rested on the express terms of Imperial enactments. Extra territorial powers of Indian Legislature

15 By section 1 of the Foreign Jurisdiction Act, 1890 (53 & 54 Vict., c 37), "it shall and may be lawful for Her Majesty to hold, exercise and enjoy any jurisdiction which Her Majesty now has or at any time hereafter may have within a foreign country in the same and as ample a manner as if Her Majesty had acquired that jurisdiction by cession or conquest of territory." But the powers under that Act are exercised by Orders in Council, and have not been conferred on the Indian Legislature. Thus, though any deficiency in Indian powers might be supplemented by an Order in Council, the actual powers of the Indian Legislature must be sought in other Acts of Parliament.

16 By section 22 of the Indian Councils Act, 1861 (24 & 25 Vict. c 67), the Governor General in Legislative Council is empowered to make laws for all persons in British Indian territory, "and for all servants of the Government of India within the dominions of Princes and States in alliance with Her Majesty."† Servants of the Crown in India.

17 By

* See *Hardcastle on the Construction of Statutes* Edition 2 page 456. So too is jurisdiction in *Gurdial v. Rajah of Faridkot* (1894) 1 L. R. 22 Cal. at p. 239, Privy Council. But this view is not accepted by other nations—Hall's *International Law* Ed 3 p. 206.

† For the rationale of this provision see *Gurdial v. Rajah of Faridkot* 1894) 1 L. R. 22 Cal., at page 239 per Lord Salmon.

(Chapter I.—Preliminary.—Section 1.)

17. By section 4 of the Indian Penal Code (Act XLV of 1860)* the provisions of that Code are extended to every servant of the Queen "within the dominions of any Prince or State in alliance with the Queen, by virtue of any treaty or engagement heretofore entered into with the East India Company, or which may have been or may hereafter be made in the name of the Queen by any Government of India" Comparing the Indian Code with the English Statute, it is to be noted that the Code only relates to the dominions of States which have treaty engagements with the Government of India, whereas the Statute authorises legislation in respect of all States in alliance with Her Majesty. On the other hand, the Indian Act purports to extend to all servants of the Queen whether in the service of the Government of India or not. In the Imperial Statute the words "Government of India" in this context would probably include a Local Government as well as the Supreme Government.

18. The expressions "servant of the Government of India" and "servant of the Queen" in these enactments no doubt apply to foreigners as well as British subjects. But it is to be noted that the Foreign Jurisdiction and Extradition Acts nor the C

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Native Indian subjects. 19 By section 4 of the 39 (32 & 33 Vict., c. 98), power is given to the Governor General in Legislative Council "to make laws and regulations for all persons being Native Indian subjects of Her Majesty, *without and beyond*, as well as within, the Indian territories under the dominion of Her Majesty."

20. The power conferred by this section is exercised by section 1 of the Foreign Jurisdiction and Extradition Act, 1879, as supplemented by section 8, *post*, p. 20.

European and other British subjects. 21. By the Indian High Courts Act, 1865 (28 & 29 Vict., c. 16, s. 3), the Governor General in Executive Council was empowered to authorise the High Courts to exercise their jurisdiction "in respect of Christian subjects of Her Majesty resident within the dominions of such of the Princes and States of India in alliance with Her Majesty" as he may from time to time determine. For orders made under this power see Mayne's *Criminal Law of India*, page

* Enacted under the authority of the 3 & 4 Will. 4, c. 85, s. 43 (*Regina v. Jimstone* (1870), 7 Bom. Cr. Ca., at page 106)

(Chapter I.—Preliminary.—Section 1.)

page 258 The notifications apply to European British subjects being Christians This presumably excludes English Jews and free thinkers, as well as Native Christians

22 This limited and peculiar power was greatly extended by another Statute of the same year. By the Government of India Act, 1865 (28 & 29 Vict., c 17), s 1, power is given to the Gov-

ern laws and regula-
tions in the dominions
of Her Majesty whe-
ther otherwise"

section 18 of the
Act, but that Act is

not retrospective, and so throws no light on the intention of Parliament in the section under discussion. But it probably refers only to Indian territory under the suzerainty of Her Majesty, and does not include French or Portuguese territory

24. As regards the term "British subjects," probably no difficulty arises in the case of natural-born subjects, but a difficulty may arise in the case of a naturalised alien The naturalisation of aliens in India is provided for by Act XXV of 1862, but this Act is probably controlled by the subsequent Naturalization Act, 1870 (33 & 34 Vict., c 14), which apparently extends to the whole of the Queen's dominions *

25. In exercising the powers conferred by the 28 & 29 Vict., c 17, to legislate for British subjects outside British India, the Indian Legislature has confined itself to "European British subjects," and has adopted the artificial definition given by the Code of Criminal Procedure, 1882—see *post*, p. 14

26 The Foreign Jurisdiction and Extradition Act, 1870, does not purport to apply to the subjects of Native States as such; and, subject to certain exceptions, it would be *ultra vires* if it did so. When the subject of a Native State is in British India he is amenable to the laws of British India, but when he quits British India he is no longer amenable to its laws, or answerable for an offence committed beyond its limits If he has committed an extraditable offence during his residence in India, he may be punished by his own State or extradited to India, but he cannot be punished by British Indian law outside British India

27. The status of the subjects of Native States is peculiar, owing to the general suzerainty of the Queen over the whole of India

* (See Hall's *Foreign Jurisdiction of the Crown* page 20. As to a foreign woman acquiring British nationality by marriage and, generally, as to the persons entitled to the status of British subjects, see *ibid.*, pages 18 to 21)

(Chapter I—Preliminary—Section 1)

India and the varying degrees of sovereignty enjoyed by the different States. It is to be noted that Parliament claims and exercises the right to legislate for the subjects of Native States in certain cases. When the subject of a Native State leaves India he is under the protection of the Foreign Jurisdiction Act, 1890 (53 & 54 Vict., c 38). By section 15 of that Act, "when any Order in Council made in pursuance of this Act extends to persons enjoying Her Majesty's protection, that expression shall include all subjects of the several Princes and States in India." See this question discussed in Hall's *Foreign Jurisdiction of the Crown*, pages 127 and 128, &c. As to the removal of prisoners in Native States to jails in British territory see sections 16—20 of the *Prisoners Act*, 1871 (V of 1871), as amended by Act VII of 1894. (Appendix III)

28 As noted above (page 8) power is given to the Indian Legislature to legislate for all servants of Government, and this power no doubt extends to subjects of Native States while in British service.

29 By section 1 of the *Slave Trade Act*, 1876 (39 & 40 Vict., c 46), offences under sections 367, 370 and 371 of the *Indian Penal Code*, committed by subjects of Native States on the High seas or in any part of Asia or Africa specified by Order in Council, may be dealt with and punished as if committed in British India, and by section 4 such subjects are further brought under the provisions of certain Orders in Council relating to the *Slave Trade*.

30 It is a clear general rule that the Indian Legislature cannot bind or legislate for foreigners outside British India, and the *Foreign Jurisdiction and Extradition Act* does not purport to apply to them. But, as noticed above, the power of legislation and the jurisdiction of British Indian Courts are by no means co-extensive.

31 Piracy is an offence by the law of all nations, and is justifiable everywhere. (Hall's *International Law*, pages 252, 261.) The *Penal Code* contains no section punishing piracy as such, but it would perhaps be competent for the Indian Legislature to make piracy *jure gentium* (though not other offences at sea) an offence under the *Indian Code*.*

32 By English law, slave dealing is regarded as on much the same footing as piracy. By section 2 of the *Slave Trade Act*, 1876 (39 & 40 Vict., c 46), the Indian Legislature was invited to amend and extend the provisions of sections 367, 370 of the *Penal Code*, but no action has yet been taken on this recommendation.

33 The

* There is an important distinction between piracy *jure gentium* and piracy by municipal law.

(Chapter I—Preliminary.—Section 1.)

33. The limits of the powers of the Indian Legislature to legislate for territorial waters have already been noticed

34. As a general rule, it is obviously expedient that subordinate Legislatures should not have power to legislate for offences on the high seas. An Imperial Statute enacts one law for all Courts in the Queen's dominions. But by section 2 of the Indian Marine Service Act, 1884 (47 & 48 Vict., c. 38), power is given to the Indian Legislature to legislate for all persons in that service while serving in Indian waters as defined by section 3.

35. The power of the Executive to make territorial laws for all persons in places where jurisdiction has been ceded in foreign territory is discussed in the note to section 4.

36. The extradition dealt with by this Act is extradition to and from British territory. Interstatal extradition is a political matter, outside the cognizance of the Indian Legislature—see *Indian Political Practice*, Vol III, Ch XVII. Saving for treaties and laws

37. Different considerations apply to extradition between British India and Asiatic Powers, and extradition between British India and European Powers

38. By section 23 of the Extradition Act, 1870 (33 & 34 Vict., c. 52), "nothing in this Act shall affect the lawful powers of Her Majesty or of the Governor General in Council to make treaties for the extradition of criminals with Indian Native States or with other Asiatic States conterminous with British India, or to carry into execution the provisions of any such treaties made either before or after the passing of this Act." This section deals with two classes of States, namely, (1) independent conterminous Asiatic Powers, such as Persia and Afghanistan, and (2) Native States in India. Asiatic States

39. Where treaties have been made with an independent Asiatic State, extradition procedure will be regulated by the terms of the treaty, but where no treaty has been made, as in the case of Afghanistan, a difficulty arises. We should not extradite a British subject, but it is to be noted that, if the alleged criminal is not a Native Indian subject or servant of the Queen, there appears to be no law under which he can be dealt with for an offence committed over the boundary. If the Asiatic State demands the extradition of one of its own subjects, there is no procedure provided by law. But the British Government is under no obligation to make India an asylum for foreign criminals, and as a matter of comity the analogy of our extradition law would ordinarily be followed. But each case must be dealt with on its own merits, as a matter of executive discretion, under

(Chapter I.—Preliminary.—Section 1.)

the orders of the Government of India—see *Indian Political Practice*, Vol. III, section 543. In such case the extradition would be in the nature of an Act of State. But section 14, *post*, p. 28, perhaps provides the requisite procedure.

40. Where a treaty has been made between the British Government and a Native State in India, the treaty regulates the terms of extradition, but where, as in most cases, there is no treaty, the Act of 1879 provides the requisite procedure. See sections 11 and 14. In practice, even where treaties have been concluded, the procedure under the Act has been found so much more convenient that supplementary agreements have in several cases been made to substitute the statutory for the treaty procedure—see *Indian Political Practice*, Vol. III, section 549.

European or
non-Asiatic
States

41. As regards European or non-Asiatic States, Mr. Mayne is of opinion that an extradition treaty requires to be ratified either by Act of Parliament or by Act of the Indian Legislature.* But the point is by no means clear. It may be that legislation would be required before a British subject could be surrendered, but perhaps it would not be requisite in the case of a foreigner. Cf. *Clarke on Extradition*, Edition 3, pages 11, 72, 99, but see the note to section 14, *post*, p. 29. The power of subordinate Legislatures to make laws for the surrender of fugitive criminals is expressly saved by section 18 of the Extradition Act, 1870 (33 & 34 Vict. c. 52), but any law so made requires confirmation, and may be superseded or modified by Order in Council.

Portugal.

42. The extradition treaty with Portugal was confirmed by Act IV of 1880, but the treaty was determined in 1890, and new treaty.

France.

... treaty with France (14th August, 1858), provisions of the English Statute, ... 11th March, 1815, relating to the Last Indian possessions of Great Britain and France, and the latter "would be the one resorted to in the case of fugitive criminals in India" (see Mayne's *Criminal Law of India*, page 250; and *Indian Political Practice*, Vol. III, section 547).

44 By

* Mayne's *Criminal Law of India*, 2nd ed., p. 250. L. J., who says, "There ... by Act of Parliament ... how far that may be ... Singh (1872), L. R. 5 P. C., at page 189.

† The treaty of 1870 is set out in *Clarke on Extradition*, Edition 3, Appendix, page 63, and the treaty of 1815 is set out in Herschell's *Treaties*, Edition of 1810 page 273, Article 1A.

(Chapter I.—Preliminary.—Sections 2-3.)

44 By section 2 of the Extradition (India) Act, 1895 (Act IX Procedure of 1895), all powers which may be exercised by a Police Magistrate or Justice of the Peace in England under the Extradition Acts of 1870 and 1873 may be exercised in India by a Presidency Magistrate or District Magistrate—see that Act in Appendix I, *post*, p 48, and the note to section 14, *post*, p 29.

45 The term “extradition” applies properly to the surrender of criminals between independent or quasi-independent States. The rendition of offenders as between different parts of Her Majesty’s dominions, *e g*, India and Australia, is now regulated by the Fugitive Offenders Act, 1881 (44 & 45 Vict, c 69). By section 9 of that Act it is confined to offences punishable with rigorous imprisonment for twelve months or more

46 In the absence of any express provision in the treaty, it seems that a person extradited on one charge may be tried and convicted of another thus a man extradited from Baroda to Bombay on a charge of dacoity was convicted of theft *Queen v Khoda Uma* (1892), I. L. R 17 Bom 369, *Mayne’s Criminal Law of India*, pages 251-252

of 1872 2 The Foreign Jurisdiction and Extradition Act, 1872, is repealed, but all existing appointments, delegations, certificates, requisitions and rules made, and all existing notifications, summonses, warrants, orders and directions issued, under that Act shall, in so far as they are consistent herewith, be deemed to have been respectively made and issued hereunder.

Note.

Act XI of 1872 repealed the 26 Geo 3, c 57, s 29, 33 Geo. 3, c 52, s 67, Act I of 1849, and Act VII of 1804. These enactments are not revived by the repeal of the Act of 1872.

2 With certain exceptions, the Indian Legislature has power to repeal or modify Acts of Parliament passed before 1861, but has no power to repeal or modify Acts passed after that date, see the Indian Councils Act, 1861 (24 & 25 Vict, c 67), section 22.

3 For the rules made under the Act of 1872, which are continued by this section, see *post*, page 34

3. In this Act, unless there is something repugnant in the subject or context,—

“Political

(Chapter I.—Preliminary.—Section 3.)

"Political Agent."

"Political Agent" means and includes—

- (1) the principal officer representing the British Indian Government in any territory or place beyond the limits of British India :
- (2) any [*] officer of the Government of India or of any Local Government[*] appointed by the Governor General in Council or [*] the Local Government[*] to exercise all or any of the powers of a Political Agent under this Act for any place not forming part of British India ; and

"European British subject."

"European British subject" means a European British subject as defined in the Code of Criminal Procedure, 1882 [b].

Note.

Sub-section (1) is taken without alteration from the Act of 1872 ; but sub-section (3) has been amended. In the Acts of 1872 and 1879 it ran :—

"(2) any officer in British India appointed by the Governor General in Council, or the Governor in Council of the Presidency of Fort St. George or Bombay, to exercise all or any of the powers of a Political Agent under this Act for any place not forming part of British India."

As now amended by section 1 of Act V of 1896, this sub-section enables any Local Government, and not only the Local Governments of Madras and Bombay, to appoint a Political Agent for the purposes of the Act, and to appoint him within as well as without British India. Having regard to the ordinary rule of construction that the singular includes the plural, it appears that two or more officers may be appointed to act as Political Agents for the same place.

2. By section 4 (a) of the Code of Criminal Procedure, 1882, "*European British subject*" means—

- "(1) any subject of Her Majesty born, naturalised or domiciled in the United Kingdom of Great Britain and Ireland, or in any of the European, American or Australian Colonies or Possessions of Her Majesty, or in the Colony of New Zealand or in the Colony of the Cape of Good Hope or Natal ;

"(2) any

[*] These words were substituted for the original words by Act V of 1896, s. 1.

[b] The reference to Act X of 1872 is altered in accordance with Act X of 1947, s. 3 (For Act X of 1882 see the revised edition, as modified up to 15th December, 1952, published by the Legislative Department.)

(Chapter II.—Powers of British Officers in places beyond British India.—Section 4.)

"(2) any child or grandchild of such person by legitimate descent."

As to proof of status, see *Re Turnbull*, 6 Mad 7, and as to loss of status under the European Vagrancy Act (IX of 1874), see section 30 of that Act

3 The definition was probably intended to include all subjects of Her Majesty of European origin or descent. But, if that was its intention, it is both redundant and defective. On the one hand, it includes a Cape Kafir or Zulu, a Jamaica negro and an Australian aboriginal. On the other hand, it does not appear to apply to Tasmania, or the Straits Settlements, or the British settlements in China or the new British possessions in Africa. So again it probably would not cover the case of the widow of a British officer who was a foreigner, though she would clearly be a British subject.

4 A European British subject may waive his privileges as such, and the special procedure which they entail—see Code of Criminal Procedure, 1882, section 454, and notes thereto in Prinsep's edition

CHAPTER II.

POWERS OF BRITISH OFFICERS IN PLACES BEYOND BRITISH INDIA.

4. The Governor General in Council may exercise any power or jurisdiction which he for the time being has within any country or place beyond the limits of British India, and may delegate the same to any servant of the British Indian Government, in such manner and to such extent as the Governor General in Council from time to time thinks fit.

Exercise of
powers of
Governor
General in
places beyond
British India
and delega-
tion thereof

Note

This section is taken without alteration from the Act of 1872

2 Its collocation in Chapter II is peculiar. In so far as it is enacting, and purports to confer jurisdiction, its operation must be limited by section 1, *ante*, page 4. As the Act itself only applies extraterritorially to British subjects, Native or European, so the powers conferred by this section must be correspondingly limited. But the section is presumably intended to operate also

Laws made
in Executive
Council.

(Chapter II.—Powers of British Officers in places beyond British India—Section 4)

as a general declaratory saving The Governor General exercises jurisdiction in State territory over persons who are not British subjects The "laws" made by the Governor General in Executive Council for cantonments and railway lands, or for the Hyderabad Assigned Districts, bind all persons within the specified limits The authority of these laws must be sought outside any powers conferred by the Indian Legislature, at any rate in so far as they apply to persons who are not British subjects. This authority may be attributed to two sources in the first place, where jurisdiction has been ceded (either expressly by treaty or impliedly by usage), the cession may include a ceded power of legislation, secondly, the Government of the Queen is the Paramount Power in India By cession or conquest the British Government has acquired the suzerainty over the whole of India, except the French and Portuguese settlements. The different Native States and Princes enjoy various degrees of sovereignty under the Paramount Power But the most powerful Native State is far from possessing all the attributes of sovereignty. It cannot make war or peace It has no diplomatic relations with foreign nations, it cannot even make treaties with its neighbours, and in many other important respects its sovereign powers are limited If the attributes of sovereignty be catalogued, it will be found that the more important of them are vested in the British Government The power of the Crown to make laws without the intervention of Parliament for conquered or ceded territory has never been contested (Anson's *Law of the Constitution*, Part II, page 258) This prerogative of the Crown has been traditionally and habitually exercised for India by the Governor General in Council. The laws thus made apparently stand on the same footing as laws made for a Crown Colony either by Order in Council or by Ordinance of the Governor, who exercises the prerogative of the Crown by delegation Of course this prerogative of the Crown is liable to be controlled by an Act of Parliament to which the Crown itself is a necessary party.

Delegated
powers

3 The jurisdiction exercised in Native States by Political Agents may be compared to the jurisdiction exercised by Consular Courts in Eastern States by virtue of Orders in Council under the Foreign Jurisdiction Act, 1890—see this subject fully discussed in Hall's *Foreign Jurisdiction of the Crown*, pages 204—238 But the analogy of Consular Courts must be applied with caution because it is far from being complete The relations of the British Government to an independent State are necessarily distinct from its relations to

States

(Chapter II.—Powers of British Officers in places beyond British India.—Section 4.)

States in India where the British Government is the paramount power, always retaining in its own hands a certain residual sovereignty. The extent of that residual or reserved sovereignty varies in each particular case, but it exists in all cases. There is no exact para-
law may f

4. In difficult s-
action, but the distinction is important. In so far as it is political, such action cannot be questioned in a British Court, though it may be the subject of political remonstrance *

5. This section enables the Governor General in Council to delegate all or any of his powers and jurisdiction in foreign territory to any servant of the British Indian Government. But this enactment does not confer any arbitrary or dispensing power on Political Officers when acting under this Act or under any law made by the Executive Council. For instance, when the Indian

...ory the
Courts
regards
the foreign State, then, the proceedings of the British officers are political in their nature, and of course in all diplomatic relations be questioned

privilege of Extraterritoriality.
"extraterritoriality"—that is to say, immunity from local laws—applies to all accredited diplomatic agents and their staffs. The immunity is complete as regards criminal law, but of dubious extent as regards civil law—see Hall's *International Law*, Edition 3, page 16.
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Great
the

* As to "acts of State" see Mayne's *Criminal Law of India*, pages 315-316.

(Chapter II.—Powers of British Officers in places beyond British India.—Section 4)

as a general declaratory saving. The Governor General exercises jurisdiction in State territory over persons who are not British subjects. The "laws" made by the Governor General in Executive Council for cantonments and railway lands, or for the Hyderabad Assigned Districts, bind all persons within the specified limits. The authority of these laws must be sought outside any powers conferred by the Indian Legislature, at any rate in so far as they apply to persons who are not British subjects. This authority may be attributed to two sources: in the first place, where jurisdiction has been ceded (either expressly by treaty or impliedly by usage), the cession may include a ceded power of legislation; secondly, the Government of the Queen is the Paramount Power in India. By cession or conquest the British Government has acquired the suzerainty over the whole of India, except the French and Portuguese settlements. The different Native States and Princes enjoy various degrees of sovereignty under the Paramount Power. But the most powerful Native State is far from possessing all the attributes of sovereignty. It cannot make war or peace. It has no diplomatic relations with foreign nations, it cannot even make treaties with its neighbours, and in many other important respects its sovereign powers are limited. If the attributes of sovereignty be catalogued, it will be found that the more important of them are vested in the British Government. The power of the Crown to make laws without the intervention of Parliament for conquered or ceded territory has never been contested (Anson's *Law of the Constitution*, Part II, page 258). This prerogative of the Crown has been traditionally and habitually exercised for India by the Governor General in Council. The laws thus made apparently stand on the same footing as laws made for a Crown Colony either by Order in Council or by Ordinance of the Governor, who exercises the prerogative of the Crown by delegation. Of course this prerogative of the Crown is liable to be controlled by an Act of Parliament to which the Crown itself is a necessary party.

Delegated
powers

3. The jurisdiction exercised in Native States by Political Agents may be compared to the jurisdiction exercised by Consular Courts in Eastern States by virtue of Orders in Council under the Foreign Jurisdiction Act, 1890—see this subject fully discussed in Hall's *Foreign Jurisdiction of the Crown*, pages 204—238. But the analogy of Consular Courts must be applied with caution because it is far from being complete. The relations of the British Government to an independent State are necessarily distinct from its relations to

States

(Chapter II.—*Powers of British Officers in places beyond British India.*—Section 4.)

States in India where the British Government is the paramount power, always retaining in its own hands a certain residual sovereignty. The extent of that residual or reserved sovereignty varies in each particular case, but it exists in all cases. There is no exact parallel to the situation elsewhere. The rules of international law may be applied to the situation in India.

4. It is difficult to draw a line between political and non-political action, but the distinction is important. In so far as it is political, such action cannot be questioned in a British Court, though it may be the subject of political remonstrance.*

5. This section enables the Governor General in Council to take action in relation to the territory of British India, or in relation to the law of British India, or in relation to the administration of British India.

the foreign State, then, the proceedings of the British officers are political in their nature, and of course in all diplomatic relations

Exterritori-
ality.

the

* As to "acts of State" see *Marye's Criminal Law of India*, pages 318-325.

† *Re Hayes* (1889), 1 L. R. 12 Mad. 39. Cf. *Queen v. Edwards* (1884), 1 L. R.

(Chapter II—Powers of British Officers in places beyond British India.—Section 6.)

6 The Governor General in Council may appoint any European British subject, either by name or by virtue of his office, [2] to be a Justice of the Peace in or for any such country or place [1], and every such Justice of the Peace shall have in proceedings against European British subjects, or persons accused of having committed offences conjointly with such subjects, all the powers conferred by the Code of Criminal Procedure, 1882 [3], on Magistrates of the first class who are Justices of the Peace and European British subjects

The Governor General in Council may direct to what Court having jurisdiction over European British subjects any such Justice of the Peace is to commit for trial [°]

Note.

This section was taken without alteration from the Act of 1872, but it has been amended by Act XII of 1891, which enables Justices of the Peace to be appointed *for* as well as *in* Native territory. The amendment takes effect as from the commencement of the Act of 1879. Compare the corresponding alteration made in the definition of Political Agent in section 3, *ante*, page 12.

2 The Act of 1870 referred to the Code of Criminal Procedure, 1872. The substitution of the Code of Criminal Procedure, 1852, is made by virtue of section 3 of the latter Act.

Peace in Native
commit to, see

Mad 33, it was
had no power to
deal with a European British subject committed to him for trial
on a charge under section 345 of the Penal Code. It was pointed
out that it was doubtful whether a commitment could be made to the
the

[**] These words were substituted for the original words by Act XII of 1891. The amendment is to have effect as from the commencement of Act XXI of 1879—see s. 1 (3) of Act XII of 1891.

[b] The reference to Act X of 1873 is altered in accordance with Act X of 1952 s 3 (for Act X of 1932 see the revised edition, as modified up to 15th December 1953 published by the Legislative Department.)

[6] As to trial of European British subjects in British India for offences committed in Native States: see Act X of 1862, s. 189.

(Chapter II.—Powers of British Officers in places beyond British India.—Section 5.)

the British Indian Government to claim any additional privileges for him which it might think requisite for his position.

8. In India the principle of extritoriality is carried further than by ordinary international law, and, on grounds of public policy is extended to all European British subjects, so far as relates to criminal law. On the one hand, a European British subject is or can be withdrawn from the jurisdiction of the Native State Courts, and on the other hand he is made amenable to British Indian law for offences committed in State territory—see *Indian Political Practice*, Vol. III, section 453, where certain minor exceptions to

of Native Indian British

See sections 11 and 18.

ent, as the Paramount

Power, reserves to itself the right to demand from a Native State the extradition of any offender, whether he be a British subject or not. The exercise of this power must be regarded as an act of State.

10. The extension (by section 8, *post*, p. 20) of the Criminal Procedure Code to British subjects in Native territory gives rise to a curious theoretical complication. Take the case of Bangalore, to which the Criminal Procedure Code has been applied by executive notification. It applies there as a territorial law, but it also appears to apply to British subjects as a personal law irrespective of the notification. Thus the same provisions administered by the same officers appear to owe their authority to two wholly distinct sources.

5. A notification in the Gazette of India of the exercise by the Governor General in Council of any such power or jurisdiction, and of the delegation thereof by him to any person or class of persons, and of the rules of procedure or other conditions to which such persons are to conform, and of the local area within which their powers are to be exercised, shall be conclusive proof of the truth of the matters stated in the notification.

Note.

This section is taken without alteration from section 5 of Act XI of 1872. Laws made for State territory by the Governor General in Executive Council are promulgated by notification in the Gazette of India. They recite that they are made under the powers conferred by this Act "and all other powers in that behalf"—see note to last section.

Notification
of exercise
or delegation
of such
powers.

6. The

(Chapter II.—Powers of British Officers in places beyond British India.—Section 6.)

6. The Governor General in Council may appoint any European British subject, either by name or by virtue of his office, [a] to be a Justice of the Peace in or for any such country or place [a]; and every such Justice of the Peace shall have in proceedings against European British subjects, or persons accused of having committed offences conjointly with such subjects, all the powers conferred by the Code of Criminal Procedure, 1882 [b], on Magistrates of the first class who are Justices of the Peace and European British subjects.

Appointment,
powers and
jurisdiction
of Justices of
the Peace.

The Governor General in Council may direct to what Court having jurisdiction over European British subjects any such Justice of the Peace is to commit for trial [c].

Note.

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is made by virtue of section 3 of the latter Act.

Peace in Native
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> Mad. 33, it was
had no power to
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made to
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[a] These words were substituted for the original words by Act XII of 1891. The amendment is to have effect as from the commencement of Act

e with Act X
modified up to
in for offences

(Chapter II.—Powers of British Officers in places beyond British India.—Sections 7-8.)

the Madras High Court in cases not punishable with death or transportation for life; "but inasmuch as this Court (the Madras High Court) has been duly constituted a Court of original criminal jurisdiction, it is not committed by European British subjects that in the absence of the Court would be a good commitment."

Confirmation of existing Political Agents and Justices.

7. All Political Agents and all Justices of the Peace appointed before the twenty-fifth day of April, 1872, by the Governor General in Council or the Governor in Council of the Presidency of Fort St. George or Bombay, in or for any such country or place as aforesaid, shall be deemed to be and to have been appointed, and to have and to have had jurisdiction, under the provisions of this Act.

Note.

This section is now probably spent and, at any rate, having regard to the saving in section 2, it seems unnecessary.

Extension of criminal law of British India to British subjects out of British India.

8. The law relating to offences and to criminal procedure for the time being in force in British India shall, subject as to procedure to such modifications as the Governor General in Council from time to time directs, extend—

- (a) to all European British subjects in the dominions of Princes and States in India in alliance with Her Majesty; and
- (b) to all Native Indian subjects of Her Majesty in any place beyond the limits of British India.

Note.

For the statutory authority to enact this section see note to section 1, *ante*, page 4.

2. The law relating to offences and to criminal procedure for the time being in force in British India shall, subject as to procedure to such modifications as the Governor General in Council from time to time directs, extend—

3. It is to be noted that neither this Act nor section 183 of the Code of Criminal Procedure applies to Government servants as such, though there is statutory power to legislate for offences committed by them in Native territory; see *ante*, page 7.

4. In

(Chapter II.—Powers of British Officers in places beyond British India.—Sections 7-8.)

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Note.

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- (b) to all Native Indian subjects of Her Majesty in any place beyond the limits of British India.

Note.

For the statutory authority to enact this section see note to section 1, *ante*, page 4.

2. This section applies the substantive criminal law of India to the persons specified without modification, but provides for the modification of procedure or adjective law.

3. It is to be noted that neither this Act nor section 188 of the Code of Criminal Procedure applies to Government servants as such, though there is statutory power to legislate for offences committed by them in Native territory; see *ante*, page 7.

1879.] *Foreign Jurisdiction and Extradition.*

(Chapter II—Powers of British Officers in places beyond British India.—Section 8)

4. In another respect the section is not exhaustive. It deals only with Native Indian subjects, and European British subjects as defined by section 4. Any British subject who does not fall within one of these two categories is apparently outside the Act, *e.g.*, this provision would not apply to a Cingalese or a Tasmanian. On the other hand, the Act of 1872 applied to "all British subjects, European and Native, in Native States."

5. The following cases which have been decided by the various Substantive High Courts illustrate the operation of the section. Some of the law decisions are inconsistent and many of them gave rise to conflicts of judicial opinion. The decisions are arranged in chronological order.

(1) A, a foreigner in Kolhapur, instigates B, in British India, to commit a murder there. A has committed no offence for which he can be tried in British India—see No. (12).*

(2) A, a foreign subject, commits a dacoity in State territory and brings the stolen property into British India. He cannot be convicted of dacoity, but may be convicted of retaining stolen property under section 412 of the Penal Code †

(3) A, a Native Indian soldier, commits a murder in Cyprus; he can be tried and convicted for this murder at Agra.‡

(4) A [a British subject?] steals bills of exchange in Mauritius, and gets them cashed in Bombay; he cannot be convicted of receiving or retaining stolen property in British India, for theft in Mauritius is not an offence under the Penal Code. But see now section 9 of Act VIII of 1882. §

(5) A, in Mysore, contracted to labour for B, in British India, but broke his contract. He was arrested in Mysore, brought into British territory, and ordered to perform the contract under Act XIII of 1859. The order was quashed on the ground that the Court had no jurisdiction over a contract made and broken in Mysore.||

(6) A

* *Reg v Parlat* (1873) 10 Fem. R. 350. Cf. *Empress v. S. Moorga Chetty* (1881), 1 L. R. 5 Bom. at p. 357.

† *Reg v Lukhaya Gorind* (1875), 1 L. R. 1 Bom. 50 followed *Empress v. Sunler Gope* (1880) 1 L. L. 6 Cal. 207, but disapproved, *Empress v. S.*

" " " " " 2 All. 219. (The case was the Court, Sicart, C.J., sed quæ)

" " " " " R. 5 Bom. 328. West, J., dissenting.

|| *Sarkar v. Baligera* (1884), 1 L. R. 7 Mad. 354.

(Chapter II—Powers of British Officers in places beyond British India.—Sections 7-8.)

the Madras High Court in cases not punishable with death or transportation for life; "but inasmuch as this Court (the Madras High Court) has been exercising criminal jurisdiction to take European British subjects, be in the absence of any special direction a commitment to this Court would be a good commitment."

Confirmation of existing Political Agents and Justices.

7. All Political Agents and all Justices of the Peace appointed before the twenty-fifth day of April, 1872, by the Governor General in Council or the Governor in Council of the Presidency of Fort St George or Bombay, in or for any such country or place as aforesaid, shall be deemed to be and to have been appointed, and to have and to have had jurisdiction, under the provisions of this Act.

Note.

This section is now probably spent and, at any rate, having regard to the saving in section 2, it seems unnecessary.

Extension of criminal law of British India to British subjects out of British India.

8. The law relating to offences and to criminal procedure for the time being in force in British India shall, subject as to procedure to such modifications as the Governor General in Council from time to time directs, extend—

- (a) to all European British subjects in the dominions of Princes and States in India in alliance with Her Majesty; and
- (b) to all Native Indian subjects of Her Majesty in any place beyond the limits of British India.

Note

For the statutory authority to enact this section see note to section 1, *ante*, page 4.

2. This section applies the substantive criminal law of India to the persons specified without modification, but provides for the modification of procedure or adjective law.

3. It is to be noted that neither this Act nor section 188 of the Code of Criminal Procedure applies to Government servants as such, though there is statutory power to legislate for offences committed by them in Native territory; see *ante*, page 7.

(Chapter III.—*Inquiries in British India into Crimes committed by British Subjects in Places beyond British India.*)

7. The application of substantive criminal law to British subjects outside British India gives rise to no difficulty, but the application of procedure seems anomalous. Take the case of an Indian coolie going to Uganda. It cannot be meant that he carries with him his Code of Criminal Procedure with all its elaborate hierarchy of Courts, or that the Code can in any sense be in force in Uganda. The probable meaning of the provision is that, if the coolie in question commits an offence in Uganda and afterwards returns to India, he is there amenable to the British Indian Courts and procedure.

CHAPTER III.

INQUIRIES IN BRITISH INDIA INTO CRIMES COMMITTED BY BRITISH SUBJECTS IN PLACES BEYOND BRITISH INDIA.

9, 10. [*Liability of British subjects for offences committed out of British India : Political Agent to certify fitness of inquiry into charge : Power to direct copies of depositions and exhibits to be received in evidence.*]

Note.

Sections 9 and 10 were repealed by section 2 and Schedule I to the Code of Criminal Procedure, 1892, and sections 188 to 190 of that Code were substituted therefor.

2. The substituted sections are as follows :—

“188 When an European British subject commits an offence in the dominions of a prince or State in India in alliance with Her Majesty, or
 Liability of British subjects for offences committed out of British India

When a Native Indian subject of Her Majesty commits an offence at any place beyond the limits of British India,

Foreign Jurisdiction and Extradition. [ACT XXI
(Chapter II.—Powers of British Officers in places
beyond British India—Section 8)

(6) A, the subject of a Native State, steals property in the civil station of Rajkote, which is not a part of British India. If he brings the property into British India, he can be convicted there of retaining stolen property by virtue of section 9 of Act VIII of 1882 *

(7) A, in British territory, contracted to labour for B, in foreign territory, having broken his contract, he was ordered to pay under Act XIII of 1859 or to be imprisoned in default. The order was quashed for want of jurisdiction †

(8) A, a Native Indian subject, commits a murder in Perim. He can be brought for trial to Bombay, for Perim is part of British India ‡

(9) A, who is not proved to be a British subject, is found in Gwalior in possession of stolen property obtained by dacoity in British India. He cannot be convicted in British India of retaining stolen property §

(10) A, a Native Indian subject, commits criminal breach of trust as a carrier in Portuguese territory. He can be tried and convicted in any place in British India in which he may be found ||

(11) A, a subject of Baroda, but in the service of the Indian Government, takes bribes in Cambay. He cannot be tried or convicted in British India ¶

(12) A, in British India, incites B, a Portuguese subject, to commit murder in Portuguese territory. A has committed no offence—see No. (1) **

Procedure

6 So far as to sub-
been held that the High
jurisdiction," can transfe
subject from the British
when a European British subject was charged with libelling
another British subject before the Cantonment Magistrate of
Secunderabad, the case was removed for trial into the High Court
of Bombay. ††

7 The

* *Queen v Abdul Latif* (1865) 1 L. R. 10 Bom. 186
† *Gregory v Tudakani Kanjani* (1886) 1 L. R. 10 Mad. 21
‡ *Queen Empress v Mangal Tekchand* (1886) 1 L. R. 10 Bom. 274.
See now Regulat on II of 1891

§ *Q. v. ...*
|| *Q. v. ...*
¶ *Q. v. ...*
R. 10
Dom 106.

†† *Queen Empress v Edwards* (1891) 1 L. R. 9 Bom 333 *Cf. Re Hayes* (1892). 1 L. R. 12 Mad 39

(Chapter III.—*Inquiries in British India into Crimes committed by British Subjects in Places beyond British India.*)

coolie going to Uganda. It cannot be meant that he carries with him his Code of Criminal Procedure with all its elaborate hierarchy of Courts, or that the Code can in any sense be in force in Uganda. The probable meaning of the provision is that, if the coolie in question commits an offence in Uganda and afterwards returns to India, he is there amenable to the British Indian Courts and procedure.

CHAPTER III.

INQUIRIES IN BRITISH INDIA INTO CRIMES COMMITTED BY BRITISH SUBJECTS IN PLACES BEYOND BRITISH INDIA.

9, 10. [*Liability of British subjects for offences committed out of British India : Political Agent to certify fitness of inquiry into charge : Power to direct copies of depositions and exhibits to be received in evidence.*]

Note.

Sections 9 and 10 were repealed by section 2 and Schedule I to the Code of Criminal Procedure, 1852, and sections 188 to 190 of that Code were substituted therefor.

2. The substituted sections are as follows :—

“188 When an European British subject commits an offence in the dominions of a prince or State in India in alliance with Her Majesty, or

Liability of British subjects for offences committed out of British India

(Chapter IV.—Extradition.—Section 11.)

6. It is to be noted that section 189 does not apply to the case of a foreigner who commits an offence in British territory but escapes into Native territory and afterwards is "found" in British territory.

7. In Yusuf-ud-din's case, which is now under appeal to the Privy Council, an alleged subject of Hyderabad was charged with an offence in British India. He was arrested (under a warrant granted by the Simla Magistrate) on a railway in Hyderabad in respect of which jurisdiction had been ceded, and to which the Code of Criminal Procedure had been applied. The Chief Court of the Punjab held that the warrant could be endorsed from one territory to another and that the arrest was valid.

CHAPTER IV.

EXTRADITION.

11. When an offence has been committed or is ^{Arrest and} supposed to have been committed in any State against ^{removal of} the law of such State by a person not being a European ^{persons other} British subject, and such person escapes into or is in ^{than Euro-} British India, the Political Agent for such State may ^{pean British} issue a warrant for his arrest and delivery at a place ^{subjects} and to a person to be named in the warrant— ^{escaping into} ^{British} ^{India.}

if such Political Agent thinks that the offence is one which ought to be inquired into in such State,

and if the act said to have been done would, if done in British India, have constituted an offence ^{1860,} against any of the sections of the Indian Penal Code [a] mentioned in the schedule hereto annexed, or under any other section of the said Code, or any other law, which may, from time to time, be specified by the Governor General in Council by a notification in the Gazette of India.

[b] The act of desertion from any body of Imperial Service Troops shall be deemed to be an offence in respect of which the Political Agent for the State to which

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st May, 1896, published by the Legislative Department.

[b] This paragraph was added by Act V of 1906, s. 2.

(Chapter IV.—Extradition.—Section 11.)

6. It is to be noted that section 188 does not apply to the case of a foreigner who commits an offence in British territory but escapes into Native territory and afterwards is "found" in British territory.

7 In Yusuf-ud din's case, which is now under appeal to the Privy Council, an alleged subject of Hyderabad was charged with an offence in British India. He was arrested (under a warrant granted by the Court of the Hyderabad in respect of which the Court of the Criminal Procedure) in British India. The Punjab held that the warrant could be enforced from one territory to another and that the arrest was valid.

CHAPTER IV.

EXTRADITION.

11. When an offence has been committed or is supposed to have been committed in any State against the law of such State by a person not being a European British subject, and such person escapes into or is in British India, the Political Agent for such State may issue a warrant for his arrest and delivery at a place and to a person to be named in the warrant—

if such Political Agent thinks that the offence is one which ought to be inquired into in such State,

and if the act said to have been done would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code [*] mentioned in the schedule hereto annexed, or under any other section of the said Code, or any other law, which may, from time to time, be specified by the Governor General in Council by a notification in the Gazette of India.

[^b] The act of desertion from any body of Imperial Service Troops shall be deemed to be an offence in respect of which the Political Agent for the State to which

[*] For Act XI V of 1860 see the revised edition, as modified up to 1st May, 1876, published by the Legislative Department.

[^b] This paragraph was added by Act V of 1876.

(Chapter IV.—Extradition.—Section 12.)

which such troops belong may issue a warrant under this section.

Note.

For the schedule of extradition-offences referred to in paragraph 3 of the section, see *post*, page 38.

2. The provisions of this section must be read subject to the express terms of any treaty dealing with the procedure to be adopted in the case of the treaty State—see section 1, *ante*, page 4.

3 This section deals with extradition from British India to Native States for which Political Agents have been appointed. It divides offenders into two categories, namely, (1) European British subjects as defined by section 4, and (2) all other persons, whether British subjects or not. European British subjects are excluded from this procedure. The result appears to be this—

4 Where a European British subject commits a crime in a Native State and escapes into British India, then—

- (a) he cannot be extradited, but can be prosecuted at any place in British India where he is found,
- (b) he is only liable if the offence with which he is charged is an offence according to British Indian law, but
- (c) he is liable for any such offence whether it is an extradition crime or not.

5. The same liability attaches to Native Indian subjects who in addition can be extradited for extradition crimes, but foreigners and British subjects who are neither European British subjects nor Native Indian subjects, can only be dealt with by way of extradition and in cases where they have committed an extradition crime.

6. Section 14 provides a procedure for extradition on the demand of a Foreign Government. Rule 1, *post*, page 34, provides that the Political Agent is not to issue his warrant under this section when a requisition has been made under section 14. The details of the procedure to be followed by Political Agents acting under section 11 are given by rules 2 to 7, *post*, pages 34, 35.

which the Government of India clearly set forth in the letter Appendix II, *post*, page 50, and the rulings of the Government of India are collected in Chapter XVI of the *Indian Political Practice*

12. Such warrant may be directed to the Magistrate of any district in which the accused person is believed

Direction
and execu-
tion of war-
rant.

(Chapter IV.—Extradition.—Sections 12A-12B.)

believed to be, and shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants [*]; and the accused person, when arrested, shall, [b] unless released on bail in accordance with the provisions of the next following section [b], be forwarded to the place and delivered to the officer named in the warrant.

[c] 12A. A Political Agent issuing a warrant for the arrest of any person under section 11 may in his discretion direct by endorsement thereon that, if such person executes a bond with sufficient sureties for his attendance before the officer mentioned in the warrant at a specified time, the Magistrate to whom the warrant is directed shall take such security and release such person from custody.

Power to Political Agent to direct security to be taken and procedure thereon.

The endorsement shall state (a) the number of sureties (if any), (b) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound, and (c) the time and place at which he is to attend before the officer mentioned in the warrant.

Whenever security is taken under this section, the Magistrate shall certify the fact to the Political Agent by whom the warrant was issued, and shall retain the bond.

Note.

This and the two following sections were added by the Act of 1896 to obviate a patent hardship.

[c] 12B. If the person bound by any bond executed under the last foregoing section to appear before the officer mentioned therein does not so appear, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and delivered over to such officer.

Arrest on breach of bond to appear

12C. In

[a] See now Act X of 1882, Ch. VII, a reprint of which, as modified up to 16th December, 1888, has been published by the Legislative Department.

[b b] These words were inserted by Act V of 1880, s. 2.

[c] Sections 12A and 12B were inserted by Act V of 1896, s. 4.

(Chapter IV — Extradition — Sections 12C-14)

Appl cat on
of sections
513 and 514
Act X 1882

Politi cal
Age t may
h n elf d s
pose of case
or make over
person to
ord nary
Courts for
trial

Requ s tions
for extradi
t on by the
Execut ve of
any part of
Br t sh dom
in ons or
F re gn
Power

[^a] 12C In the case of every bond required to be executed or which may have been executed in accordance with the foregoing provisions, the powers conferred by sections 513 and 514 of the Code of Criminal Procedure, 1882 [^b] on the Court which has required the execution of or has taken a bond may be exercised by the Magistrate

13 Such Political Agent may either dispose of the case himself, or, if he is generally or specially directed to do so by the Governor General in Council, or by the Governor of the Presidency of Port St George in Council or by the Governor of the Presidency of Bombay in Council, may give over the person so forwarded, whether he be a Native Indian subject of Her Majesty or not, to be tried by the ordinary Courts of the State in which the offence was committed [^c] or, in the case of a deserter, by a duly constituted Military Court [^c]

Note

This section is taken from the Act of 1872 with a verbal alteration. The provision as to deserters has been added by the Act of 1896

2 It is not clear why when section 3 was amended by substituting ' Local Government ' for the Governments of Madras and Bombay a similar amendment was not made in this section

3 By rule 13 of the rules of 1870 *post*, page 37, " nothing in rules 5 to 10 inclusive which refer to cases under section 13 of the Act shall be deemed to apply to Political Agents immediately under the authority " of the Governments of Madras and Bombay

14 Whenever a requisition is made to the Governor General in Council or any Local Government by or by the authority of the persons for the time being administering the executive government of any part of the dominions of Her Majesty, or the territory of any Foreign Prince or State, that any person accused of having committed an offence in such dominions or territory

[^a] Section 12C was inserted by Act V of 1896, s. 4.

[^b] For Act X of 1882 as the revised edition as modified up to 15th December 1898 published by the Legislative Department.

[^c] These words were added by Act V of 1896 s. 5

(Chapter IV.—Extradition —Section 14)

territory should be given up, the Governor General in Council or such Local Government, as the case may be, may issue an order to any Magistrate who would have had jurisdiction to inquire into the offence if it had been committed within the local limits of his jurisdiction, directing him to inquire into the truth of such accusation

The Magistrate so directed shall issue a summons or warrant for the arrest of such person, according as the offence named appears to be one for which a summons or warrant would ordinarily issue, and shall inquire into the truth of such accusation, and shall report thereon to the Government by which he was directed to hold the said inquiry. If, upon receipt of such report, such Government is of opinion that the accused person ought to be given up to the persons making such requisition, it may issue a warrant for the custody and removal of such accused person and for his delivery at a place and to a person to be named in the warrant.

X of 1882

The provisions of section [*] 189 of the Code of Criminal Procedure, 1882 [*], shall apply to inquiries held under this section.

Note

This section is remarkable for its vagueness, and in the absence of judicial decision gives rise to several difficulties of construction. It is taken without substantial alteration from the Act of 1872 and is apparently intended to summarise and reproduce the lengthy provisions of the repealed Act VII of 1854

2 First, it is to be noted that by virtue of section 2, *ante*, page 13, the section must be read subject to the provisions of any treaty or law confirming a treaty.

3 Secondly, there is no definition of the term "offence". The section therefore is not confined, as is section 11, to extradition offences. Nor is it confined to "heinous offences" as was the Act of

[*] The reference to a 10 of Act XXI of 18 9 has been altered in accordance with Act X of 1882 s. 3 (for Act X of 1882 see the revised edition as modified up to the 15th December, 1888, published by the Legislative Department)

(Chapter IV.—Extradition.—Section 14.)

of 1854. Application may be made for the extradition of any offender. But, having regard to the concluding terms of paragraph 1, it is reasonably clear that the wrongful act in respect of which extradition is asked must be of such a nature as to be an offence by the law of both countries. But though there is nothing in the section to confine its operation to extradition offences, still the Executive in exercising its discretion under the second paragraph of the section would presumably have regard to the nature of the offence *

4 Thirdly, the section draws no distinction between European British subjects and other British subjects, or between British subjects and foreigners. It applies to "any person" who has committed an offence. By the Statute 24 & 25 Vict., c 67 (cited *ante*, page 7), power is given to the Indian Legislature to make laws for all Courts and for all persons, whether British subjects or foreigners, in British India. As the section relates to procedure in British India, it is *ultra vires*, unless it be held that power to legislate for persons in British India does not cover power to legislate for their extradition from British India. If the latter view be correct,—and the framers of Act IX of 1895 appear to have held that view,—considerable difficulties may arise as regards persons who are not British subjects; see *post*, page 43.

5 Fourthly, there is some difficulty as to what Governments can apply for extradition under this section

(a) As regards Indian Native States, a procedure has been provided by section 11. But by rule 1, *post*, page 34, that procedure is not to be resorted to when a requisition is made under this section. But it is to be noted that a European British subject would not be surrendered to a Native State in spite of the wide terms of this section.

(b) As regards independent Asiatic States, this section provides the procedure to be followed. But the Indian Government would certainly not surrender a British subject, and probably, in the exercise of its discretion, it would confine the surrender to subjects of the Asiatic Power making the requisition, and even then, in the absence of treaty stipulations, the power would be exercised with great caution. But it is to be observed that, if the offender is not a Native Indian subject, there is no means of punishing him in British India, see section 8 and notes thereto, *ante*, page 20.

(c) As

* Compare the divergent definitions of the term "offence" given by section 40 of the Indian Penal Code and section 4 (p) of the Code of Criminal Procedure, 1862 and see an elaborate discussion of the former in *Queen-Empress v S Xorga Chetty* (1881) 1 L R 5 Bom. 339

(Chapter IV.—Extradition —Section 15.)

(c) As regards France and Portugal, the two European Powers whose possessions are contiguous to ours in India, this section appears to provide the necessary procedure; but the point is not free from doubt. Act IX of 1895 provides an alternative, and, it may be, the only, procedure to be followed. See that Act, *post*, page 41.

(d) As regards European or other non-Asiatic States who demand the extradition of one of their subjects under the provisions of an English treaty, Act IX of 1895 provides an alternative, or perhaps, as pointed out above, an exclusive, procedure. If, on grounds of comity, extradition was demanded by a non treaty Power, this section seems to furnish the necessary procedure, but then comes the question discussed above as to the validity of the powers conferred by the enactment.

(e) As regards a requisition for the surrender of a British subject made by a Colonial Government, or the Government at home, the Fugitive Offenders Act, 1881 (44 & 45 Vict., c. 69), probably supersedes the procedure under this section, and does not merely provide an alternative procedure.

6. Fifthly, the provisions as to bail in section 17 do not seem to apply to a person arrested under this section.

7. Sixthly, the Magistrate is directed to "enquire into the truth" of the accusation. Under these words it is open to question whether the Magistrate is required only to see that a *prima facie* case is made out (i.e., such a case as could justify committal for trial to a superior Court), or whether he must satisfy himself that the charge is proved. Probably, though the expression is inapt, the former construction is intended.

8. Section 189 of the Code of Criminal Procedure, 1882, refers to the reception of depositions in evidence.

15. Whenever any person accused or suspected of having committed an offence out of British India is within the local limits of the jurisdiction of a Magistrate in British India, and it appears to such Magistrate that the Political Agent for any State could, under the provisions of section 11, issue a warrant for the arrest of such person, or that the persons for the time being administering the executive government of any part of the dominions of Her Majesty or the territory of any Foreign Prince or State could demand his surrender, such Magistrate may, if he thinks

Magistrate may in certain cases issue warrant for arrest of person accused of having committed an offence out of British India.

thinks fit, issue a warrant for the arrest of such person, on such information or complaint and such evidence as would, in his opinion, justify the issue of such a warrant if the offence had been committed within the local limits of his jurisdiction.

Magistrate
to inform
Political
Agent or
Local Gov-
ernment.

Any Magistrate issuing a warrant under this section shall, when the offence appears or is alleged to have been committed in a State for which there is a Political Agent, send immediate information of his proceedings to such Agent, and in other cases shall at once report his proceedings to the Local Government.

Note.

This section and the next reproduce in different language the provisions of sections 19 and 20 of the repealed Act VII of 1854 which were omitted from Act XI of 1872. A supplemental provision as to arrest without warrant is added in section 17A by the Act of 1896.

2. Here again there is an ambiguity in the meaning of the term "offence" See note to section 14, *ante*, page 29. As regards offences supposed to have been committed by fugitive British subjects from other parts of the Queen's dominions, the term "offence" relates presumably to such offences as are specified in section 9 of the Fugitive Offenders Act, 1881 (44 & 45 Vict., c. 69).

Person
arrested to be
released after
certain time
if not pro-
ceeded
against.

16. No person arrested on a warrant issued by a Magistrate under section 15 shall be detained more than two months from the date of his arrest, unless within such period the Magistrate receives a warrant under section 11 from the Political Agent for any State for the delivery of such person, or an order with reference to him under section 14 from the Governor General in Council or Local Government, or such person is in accordance with law delivered up to some Foreign Prince or State.

At any time before the receipt of such a warrant or order the Magistrate, if he thinks fit, may, and the Magistrate if so directed by the Local Government shall, discharge the accused person.

Note.

(Chapter IV.—Extradition.—Sections 17-17A.)

Note

The provisions of this section do not apply to persons arrested under sections 11 and 14, but they do apply to persons arrested without warrant by the police under section 17A.

17. The provisions of the Code of Criminal Procedure, 1882, in respect of bail [a] shall apply in the case of any person arrested under section 15 in the same manner as if such person were accused of committing in British India the offence with which he is charged.

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Note.

The provisions of this section do not appear to apply to persons arrested under section 14

[b] 17A Notwithstanding anything in the Code of Criminal Procedure, 1882, any person arrested without an order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause seventhly, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 15 of this Act.

Detention of persons arrested under section 54, clause seventhly, Act X, 1882

Note

The clause referred to in this section is as follows —

Any police officer may without an order from a Magistrate and without a warrant arrest

seventhly—any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in any act com-

CHAPTER V.

[a] See Act X of 1882, s. 3 and Chapter XXXIV a reprint of which, as modified up to 15th December, 1885, has been published by the Legislative Department.

[b] Section 17A was added by Act V of 1896, s. 6.

Foreign Jurisdiction and Extradition. [ACT XXI
(Chapter V.—Miscellaneous.—Section 18.)

CHAPTER V.

MISCELLANEOUS.

Power to
make rules

18. The Governor General in Council may, from time to time, make rules to provide for—

- (1) the confinement, diet and prison discipline of British subjects, European or Native, imprisoned by Political Agents under this Act;
- (2) the removal of accused persons under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them; and
- (3) generally to carry out the purposes of this Act.

Note.

By virtue of section 2, *ante*, page 13, the rules made under the repealed Act XI of 1872 are to be deemed to be made under this Act

Rules in
force

2. The rules now in force are as follow (see Notifications No 31-J., dated the 12th March, 1875—Gazette of India, 13th March, 1875, Part I, page 123, and No. 87-J, dated the 16th August, 1876—Gazette of India, 19th August, 1876, Part I, page 44 —

41. The British Agent shall not be a member of any of the
or any Local Government.

the Native State

(Chapter V.—Miscellaneous.—Section 18.)

"4 The Political Agent shall in all cases, before issuing a warrant under section 11, satisfy himself by preliminary enquiry that there is a *prima facie* case against the accused, and that the charge is not prompted by political motives.

"5 If the person surrendered under the warrant of a Political Agent, issued under section 11, be not a British subject, or if, such person being a British subject, the Courts of the State, either by custom or by the express

State have, by custom or recognition as aforesaid, power to inflict the punishment which may be inflicted under the Indian Penal Code for the offence with which the accused person is charged.

"6 If the accused be a British subject, but the Courts of the State do not by custom or recognition as aforesaid try Native British subjects, the Political Agent shall dispose of the case himself

"7 If the punishment which may be awarded under the Indian Penal Code for any offence for which an accused person has been surrendered as above be more than the Courts of the State by custom or recognition as aforesaid inflict, the Political Agent may try the case himself, if he thinks it advisable to do so.

...preceding rules, the Political
...ver for trial by the ordinary
...instructed by the Governor

"9 In cases made over for trial by the Courts of a Native State under rules 6 and 7, the Political Agent shall satisfy himself that the accused receives a fair trial, and that the punishment inflicted in the case of his conviction is not excessive or barbarous, and, if he is not so satisfied, he shall demand the restoration of the prisoner to his custody pending the orders of Government.

"10. A return of all persons made over for trial by the Courts of a Native State under rules 5 and 7 shall be submitted half yearly by the Political Agent to

- *Foreign Jurisdiction and Extradition.* [ACT XXI
 - (*Chapter V.—Miscellaneous.—Section 18.*)

CHAPTER V.

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Note.

By virtue of section 2, *ante*, page 13, the rules made under the repealed Act XI of 1872 are to be deemed to be made under this Act.

Rules in force

2. The rules now in force are as follow (see Notifications No. 31-J., dated the 12th March, 1875—Gazette of India, 13th March, 1875, Part I, page 128; and No. 87-J., dated the 16th August, 1876—Gazette of India, 19th August, 1876, Part I, page 44:—

"1. The Political Agent shall not issue a warrant under section 11 of the Act in any case which is provided for by treaty, if the Native State expressly desires to abide by the procedure of the treaty, nor in any case in which application for surrender is made under section 14 to the Governor General in Council or any Local Government.

"2. The Political Agent shall not issue a warrant under section 11, except in any case in which the Native State expressly desires to abide by the procedure of the treaty, nor in any case in which application for surrender is made under section 14 to the Governor General in Council or any Local Government.

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State have, by custom or recognition as aforesaid, power to inflict the punishment which may be inflicted under the Indian Penal Code for the offence with which the accused person is charged.

"6 If the accused be a British subject, but the Courts of the State do not by custom or recognition as aforesaid try Native British subjects, the Political Agent shall dispose of the case himself.

"7. If the punishment which may be awarded under the Indian Penal Code for any offence for which an accused person has been surrendered as above be more than the Courts of the State by custom or recognition as aforesaid inflict, the Political Agent may try the case himself, if he thinks it advisable to do so.

"9 In cases made over for trial by the Courts of a Native State under rules 6 and 7, the Political Agent shall satisfy himself that the accused receives a fair trial, and that the punishment inflicted in the case of his conviction is not excessive or barbarous, and, if he is not so satisfied, he shall demand the restoration of the prisoner to his custody pending the orders of Government.

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or any Local Government.

"2. The Political Agent shall not issue a warrant under section 11, except on a request preferred to him in writing by, or by the authority of, the person

the Native State.

"4. The

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"4 The Political Agent shall in all cases, before issuing a warrant under section 11, satisfy himself by preliminary enquiry that there is a *prima facie* case against the accused, and that the charge is not prompted by political motives.

"5 If the person surrendered under the warrant of a Political Agent, issued under section 11, be not a British subject, or if, such person being a British subject, the Courts of the State, either by custom or by the express

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"6 If the accused be a British subject, but the Courts of the State do not by custom or recognition as aforesaid try Native British subjects, the Political Agent shall dispose of the case himself

"7 If the punishment which may be awarded under the Indian Penal Code for any offence for which an accused person has been surrendered as above be more than the Courts of the State by custom or recognition as aforesaid inflict, the Political Agent may try the case himself, if he thinks it advisable to do so.

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"9 In cases made over for trial by the Courts of a Native State under rules 5 and 7, the Political Agent shall satisfy himself that the accused receives a fair trial, and that the punishment inflicted in the case of his conviction is not excessive or barbarous, and, if he is not so satisfied, he shall demand the restoration of the prisoner to his custody pending the orders of Government.

"10 A return of all persons made over for trial by the Courts of a Native State under rules 5 and 7 shall be submitted half yearly by the Political Agent

to

Foreign Jurisdiction and Extradition. [ACT XXI]

(Chapter V.—Miscellaneous.—Section 19.)

"11 Persons arrested in British territory on a warrant issued by a Political Agent under section 11 and persons arrested on a warrant issued under section 14, shall be treated as far as possible in the same way as persons under trial for a similar offence would be treated under the Code of Criminal Procedure or under the procedure in force in the Presidency-towns, if the arrest take place within any Presidency-town

"12 Persons sentenced to imprisonment by the Political Agent shall, if British subjects, be conveyed to the most convenient jail in British territory, there to be dealt with as though the conviction had taken place in a Court of British India. Provided always that no appeal shall thereby be given other than is allowed by any rule for regulating appeals from the decisions of the Political Agent

"13 Persons arrested in British territory on a warrant issued by a Political Agent under section 11 and persons arrested on a warrant issued under section 14, shall be treated as far as possible in the same way as persons under trial for a similar offence would be treated under the Code of Criminal Procedure or under the procedure in force in the Presidency-towns, if the arrest take place within any Presidency-town

19. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in the territory of any Foreign Prince or State in like manner as it may be obtained in relation to any civil matter under the Code of Civil Procedure, Chapter XXV [*]; and the provisions of that chapter shall be construed as if the term "suit" included a proceeding against a criminal :

Execution of commissions issued by Foreign Criminal Courts.

Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

Note.

It is not clear why the proviso applies to this section only and not to the whole Act. Our general policy is to refuse extradition for political offences.

2. As the section apparently relates to procuring the evidence of witnesses in British India, it is not clear why the provisions of Chapter XL of the Criminal Procedure Code, 1892, were not applied instead of the provisions of the Civil Procedure Code. Possibly it was thought that the Indian Court acting in aid of the foreign Court might desire to take the evidence of a witness outside British India

THE

[a] This reference should now be read as applying to Act XIV of 1893—see s 3 of that Act. (For Act XIV of 1893 see the revised edition, as modified up to 1st July, 1898, published by the Legislative Department.)

Foreign Jurisdiction and Extradition. [AOT XXI]

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" 13 Nothing in rules 5 to 10 shall apply to which refer to section 13 of the under the Fort St

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[a] This reference should now be read as applying to Act XIV of 1883—see s 3 of that Act. (For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1909, published by the Legislative Department.)

THE SCHEDULE.

SECTIONS OF THE INDIAN PENAL CODE [*] REFERRED TO XL
IN SECTION 11.

Sections 206, 208 and 224, sections 230 to 263^A, both inclusive, sections 299 to 304, both inclusive, sections 307, 310 and 311, sections 312 to 317, both inclusive; sections 323 to 333, both inclusive, sections 347 and 348, sections 360 to 373, both inclusive, sections 375 to 377, both inclusive, sections 378 to 414 both inclusive, sections 435 to 440, both inclusive, sections 443 to 446, both inclusive, sections 464 to 468, both inclusive; sections 471 to 477, both inclusive

Note.

For power to add to this schedule of extradition offences see section 11, *ante*, page 25.

2 Having regard to the saving for treaties in section 2, it seems that the schedule only applies to cases where there is no extradition treaty specifying the offences for which extradition may be granted. Such a treaty would supersede the schedule.

3 It is to be noted that the schedule applies only to proceedings under section 11, and has no application to proceedings under sections 14, 15 or 17A.

4. The offences referred to in the schedule are—frauds upon creditors (206, 208), resistance to arrest (224), offences relating to coin (230—263), culpable homicide (299—304), attempt to murder (307), thuggee (310, 311), causing miscarriage and abandonment of child (323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333), wrongful confinement (347, 348), (360—373), rape and unnatural (375, 376, 377), abduction, robbery, etc., (378—414), mischief (435—440), lurking house-trespass (443—446), forgery (464—468), counterfeit documents (471—477)

[*] For Act XLV of 1860 see the revised edition, as modified up to 1st May, 1876, published by the Legislative Department.

THE EXTRADITION (INDIA) ACT, 1895
(ACT No. IX of 1895).

ACT No. IX OF 1895.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL

(Received the assent of the Governor General on the 7th March, 1895.)

An Act to confer on Presidency Magistrates and District Magistrates certain powers and authorities in relation to the surrender of fugitive criminals.

52. WHEREAS by the Extradition Act, 1870, it is, among other things, enacted that the said Act, when applied by Order in Council, shall, unless it is otherwise provided by such order, extend to every British possession, but with the following among other modifications, namely:—

No warrant of a Secretary of State shall be required, and all powers vested in, or acts authorised or required to be done under the said Act by, the Police Magistrate and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the Governor of the British possession alone;

And whereas by the said Act it is also enacted that, if by any law or ordinance made before or after the passing of the said Act by the Legislature of any British possession provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or are suspected of being in such possession, Her Majesty may, by the Order in Council applying the said Act in the case of any foreign State, or by any subsequent order, either—

suspend the operation with any such British possession of the said Act or any part thereof, so far

far as it relates to such foreign State, and so long as such law or ordinance continues in force there, and no longer,
 or direct that such law or ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of the said Act;

And whereas the said Extradition Act, 1870, was amended by the Extradition Act, 1873, which enacted that that Act was to be construed as one with the said Act of 1870, and that the said two Acts might be cited together as the Extradition Acts, 1870 and 1873; 33 & 37
Vict., c. 60.

And whereas it is expedient to provide for the more convenient administration in British India of the said Extradition Acts, 1870 and 1873, by conferring on Presidency Magistrates and District Magistrates the like powers and authorities in relation to the surrender of fugitive criminals as are by the said Acts vested in Police Magistrates and Justices of the Peace in the United Kingdom;

It is hereby enacted as follows :—

1. (1) This Act may be called the Extradition (India) Act, 1895; and

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf :

Provided that no such date shall be appointed until after Her Majesty has been pleased by Order in Council to direct that this Act shall have effect in British India as if it were part of the Extradition Act, 1870, and such Order has been published in the Gazette of India. 33 & 34
Vict., c. 52.

Note.

This Act was confirmed by Order in Council dated 21st November, 1895; and, by a notification published on the 8th February, 1896, the Act was brought into force on the 15th February, 1896—Gazette of India, 1896, Part I, pages 37, 38.

2. All

2. All powers vested in, and acts authorised or required to be done by, a Police Magistrate or any Justice of the Peace in relation to the surrender of fugitive criminals in the United Kingdom under the Extradition Acts, 1870 and 1873, are hereby vested in, and may in British India be exercised and done by, any Presidency Magistrate or District Magistrate in relation to the surrender of fugitive criminals under the said Acts.

Powers of
Police Magis-
trates and
Justices of
Peace under
Imperial
Acts con-
ferred on
Presidency
and District
Magistrates

Note.

For the powers referred to, and procedure and forms, see the 33 & 34 Vict., c. 52, as amended by the 36 & 37 Vict., c. 60.

2. The Extradition Act, 1895 (58 & 59 Vict., c. 33), which amends the foregoing Statutes, applies only to the United Kingdom and has no application to India.

3. The Indian Act arose out of an application for extradition made in Bombay by the Austrian Consul pursuant to the Anglo-Austrian Treaty of 1873. The application was treated as being made under the English Act of 1870. The Indian law officers advised that under that Statute the powers of a Magistrate in England could only be exercised by the Governor in person. To obviate that inconvenience the present Act was passed, and it follows the lines of the Ceylon Ordinance 10 of 1877 (see Statement of Objects and Reasons in Appendix I, *post*, page 48).

4. The Indian Act of 1895 was clearly intended primarily to deal with the case of applications for extradition under English treaties which apply to the whole of the Queen's dominions, but its actual scope is not clear.

5. In the first place, as regards such applications, it is not certain whether it provides an exclusive procedure, or whether the procedure under section 14 of the Act of 1879 could also be resorted to. It did not apply to European Power, But as section 26) it seems to follow that it has been regarded as *ultra vires* in so far as it relates to non-Asiatic States. But is this so? See note *ante*, page 31.

6. Then, again, what is the scope of the present Act? Does it only apply to cases where the application for extradition purports to be made under the English Statute, pursuant to some English treaty, or does it apply to all cases where the Indian Government may be asked to extradite a criminal? In other words, as regards cases coming under section 14 of the Act of 1879, does this Act provide an alternative procedure, or is the procedure, under section 14 to be followed exclusively? The point is uncertain and it is curious that neither the Act of 1895 nor any of the proceedings relating to it refer to the Act of 1879.

APPENDICES.

APPENDIX I.

For purposes of historical explanation the Statements of Objects and Reasons to the Bills which became the Acts of 1872, 1879, 1895 and 1896 are inserted below

2. It is to be noted that for two reasons they cannot be cited for the purpose of the legal interpretation of doubtful provisions in the Acts themselves. In the first place, the Statement of Objects and Reasons refers to the Bill as introduced, and not to the alterations subsequently made in it. In the second place, it is a well-known rule of law that the meaning of an enactment must be gathered from the terms of the enactment itself, and must not be derived from extraneous sources—see *Administrator General of Bengal v. Prem Lall* (1895), I. L. R. 22 Cal., at pp 798, 799.

1.—Statement of Objects and Reasons of Bill which became Act XI of 1872.

The object of this Bill is to throw the existing law as to offences committed in foreign territory into a more compact and convenient form, to provide in a distinct manner for the establishment of Courts in Native States for the trial of British subjects, and to lay down the conditions under which extradition can be enforced.

2 —Statement of Objects and Reasons of Bill which became Act XXI of 1879.

The eighth section of the English Extradition Act of 1870 empowers a Magistrate, when any person is charged with having committed an offence abroad, to issue a warrant of arrest in anticipation of a request being made for extradition by the State within whose limits the offence has been committed. Sections 19 and 20 of Act VII of 1854 contained similar provisions, but they were omitted in Act XI of 1872, the present Extradition Act, which consolidated and amended the existing law on the subject. Certain recent cases in which persons have committed offences in the Nizam's territory and taken refuge in British India have shown that some such provisions are still required to prevent failures of justice. The present Bill, which has been prepared to meet this want, practically re-enacts, with certain unimportant modifications, what was the law in India up to the year 1872.

3.—Statement of Objects and Reasons of Bill which became Act VII of 1891.

The object of this Bill is to remove certain defects in the Prisoners Act, 1871, which have from time to time been brought to the

Appendix I

the notice of the Government of India by Local Governments and other authorities

2 The amendments proposed which appear to call for remark are noticed in this paragraph —

* * * * *

Section 3—This section is designed to remove doubts which have from time to time been expressed as to the application of section 16 of the Prisoners Act. There are occasions on which, in consequence of the want of safe and proper places of confinement in certain territories beyond the limits of British India, or for some other cause, it is desirable that prisoners should undergo their sentences in British Indian jails where they can be held in secure custody

Section 4—Section 19 of the Act has been found to be defective in several respects

Sub section (1)—There are cases in which a Local Government cannot act as promptly as circumstances may require with respect to the reception, detention and imprisonment of prisoners, and in which only the orders of the Governor General in Council can readily secure the object to be attained. Such a case, frequently occurring, is the transfer of convicts from Native States to the settlement of Port Blair—that settlement being for the use of India generally, and therefore necessarily more directly controlled than any other part of India by the Governor General in Council

Sub section (2)—This sub section enacts the substance of the notification of the Government of India, No. 158, dated the 12th August, 1872

Sub section (3)—The amendment of the proviso to section 19 of the Act will set at rest the question whether that section relates only to sentences passed by mixed Courts in the exercise of original criminal jurisdiction

4—Statement of Objects and Reasons of Bill which became Act IX of 1895

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Vict, c 60), vested in Police Magistrates and Justices of the Peace in the United Kingdom. By section 17 (2) of the former of these Acts, read with section 26, the Governor of any part of India is empowered to perform for his province the functions assigned to the Police Magistrate under the Act, but, as he is not authorised to delegate these functions and must therefore perform

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Appendix I.

them personally, this provision does not meet the requirements of this country, where it is only calculated to give rise to grave public inconvenience. Under these circumstances it has been decided to follow the example of the Ceylon and other Colonial Legislatures by enacting a special law which, when so directed by Order in Council, will have effect in India as if it were part of the English Acts, providing for the performance of Magisterial functions under these Acts in India by the Magistrates above specified. It may be added that this Bill is based on the provisions of the Extradition Ordinance, Ceylon, 1877, which it practically reproduces

5 —Statement of Objects and Reasons of Bill which became Act V of 1896.

There is not now any legal authority for the extradition from British India of a deserter from the Imperial Service Corps. These corps are raised, drilled and maintained under the supervision of British officers at the expense of certain Native States in order to form part of the military forces of Her Majesty, and it seems reasonable that the surrender of deserters therefrom to British India should be provided for.

an amendment of section
Extradition Act, 1879, making

spect of which warrants for arrest may be issued, to give Political Agents the necessary power to obtain extradition in these cases

Many offences of a comparatively trivial kind are extraditable, but the Foreign Jurisdiction and Extradition Act, 1879, does not provide for the enlargement on bail of a person arrested under a warrant issued by a Political Agent under section 11 thereof. To remedy this defect it is proposed by this Bill to embody in that Act the provisions of the Code of Criminal Procedure which admit of the release of a person arrested under a warrant on his furnishing security, to the satisfaction of a Magistrate, for his due appearance

APPENDIX II

Appendix I.

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2. The amendments proposed which appear to call for remark are noticed in this paragraph:—

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Section 3.—This section is designed to remove doubts which have from time to time been expressed as to the application of section 16 of the Prisoners Act. There are occasions on which, in consequence of the want of safe and proper places of confinement in certain territories beyond the limits of British India, or for some other cause, it is desirable that prisoners should undergo their sentences in British Indian jails where they can be held in secure custody.

Section 4.—Section 19 of the Act has been found to be defective in several respects.

Sub-section (1).—There are cases in which a Local Government cannot act as promptly as circumstances may require with respect to the reception, detention and imprisonment of prisoners, and in which only the orders of the Governor General in Council can readily secure the object to be attained. Such a case, frequently occurring, is the transfer of convicts from Native States to the settlement of Port Blair—that settlement being for the use of India generally, and therefore necessarily more directly controlled than any other part of India by the Governor General in Council.

Sub-section (2).—This sub-section enacts the substance of the notification of the Government of India, No. 158, dated the 12th August, 1872.

Sub-section (3).—The amendment of the proviso to section 19 of the Act will set at rest the question whether that section relates only to sentences passed by mixed Courts in the exercise of original criminal jurisdiction.

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Vict., c. 60), vested in Police Magistrates and Justices of the Peace in the United Kingdom. By section 17 (2) of the former of these Acts, read with section 28, the Governor of any part of India is empowered to perform for his province the functions assigned to the Police Magistrate under the Act, but, as he is not authorised to delegate these functions and must therefore perform them

Appendix I.

them personally, this provision does not meet the requirements of this country, where it is only calculated to give rise to grave public inconvenience. Under these circumstances it has been decided to follow the example of the Ceylon and other Colonial Legislatures by enacting a special law which, when so directed by Order in Council, will have effect in India as if it were part of the English Acts, providing for the performance of Magisterial functions under these Acts in India by the Magistrates above specified. It may be added that this Bill is based on the provisions of the Extradition Ordinance, Ceylon, 1877, which it practically reproduces

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There is not now any legal authority for the extradition from British India of a deserter from the Imperial Service Corps. These corps are raised, drilled and maintained under the supervision of British officers at the expense of certain Native States in order to form part of the military forces of Her Majesty, and it seems reasonable that the surrender of deserters therefrom to British India should be provided for. The object of this Bill is, by means of an amendment of section 11 of the Foreign Jurisdiction and Extradition Act, 1879, making such desertion an offence in respect of which warrants for arrest may be issued, to give Political Agents the necessary power to obtain extradition in these cases.

Many offences of a comparatively trivial kind are extraditable, but the Foreign Jurisdiction and Extradition Act, 1879, does not provide for the enlargement on bail of a person arrested under a warrant issued by a Political Agent under section 11 thereof. To remedy this defect it is proposed by this Bill to embody in that Act the provisions of the Code of Criminal Procedure which admit of the release of a person arrested under a warrant on his furnishing security, to the satisfaction of a Magistrate, for his due appearance.

APPENDIX II

APPENDIX II.

No 2503 I, dated Simla 2nd July, 1884

From—C GRANT Esq C S I, Secretary to the Government of India,
Foreign Department,

To—The Colonial Secretary, Straits Settlements, Singapore

Extradition
policy of
Indian Gov
ernment

I AM directed to acknowledge the receipt of your letter No 1022-84 of the 7th of April, 1884, regarding the extradition of criminals from British India to independent or protected Native States, and asking to be furnished with any copies of Acts or orders bearing on the subject.

2 The question is much complicated by the various degrees of sovereignty possessed by the States allied with, or subordinate to, the British Government, and by the different status of the subjects of Her Majesty who form the population of British India. But a few principles have obtained general observance which it may be useful to indicate, as they will serve to explain the chief provisions of the existing law.

3 The States with which the Government of India has to deal fall into three classes Foreign States, Native States of the first grade, which, being in subordinate alliance, still retain a considerable measure of sovereignty, and the larger group of inferior feudatory or tributary States. The principle regulating extradition with the first class, such as the frontier States of Nepal and Burma, over which is the principle of
neither Government
only the subjects of the Government making the demand. The procedure regulating extradition in these cases is laid down in treaties.

4. Within the limits of India there are some Native States with which the Government of India has, in former times, concluded treaties of extradition, but it may be added that the general subordination of the internal Native States to the British Government further gives the Government of India power to demand the extradition of any person, if it is considered necessary to make the demand as an act of State. The policy of the Government in the present day is opposed to the conclusion of extradition agreements with Native States in India, and in only one case has the principle of reciprocity been admitted. Where such treaties exist, the crimes for which, and the conditions on which, offenders against the law of the Native State shall be surrendered have been laid down in the articles of the treaty or in rules framed under it

5 The great bulk of Indian Native States have no extradition treaties, and the procedure of extradition to them has been defined

by

Appendix II.

by the Legislature in Act XXI of 1879, of which a copy is enclosed. Nor is this procedure confined to the States which have no extradition treaties. The enactment does not supersede the treaties, as a reference to section 14 will show you, but it provides in section 11 a mode of procedure so much more prompt and liberal than that which is contained in the provisions of any treaty, that it is appealed to even by those States which have a special extradition agreement. [A Native State possessing a treaty is required to elect either for the process laid down in its treaty, or for that prescribed by the law. It is not at liberty to pick and choose between the two modes of satisfying a particular demand for surrender. It must either consistently abide by the treaty, or adopt the procedure prescribed by Act XXI of 1879 with the conditions attached. Practically, the Act is superseding the obsolete methods provided for by the treaties.*]

6. It remains to consider the distinctions between the various classes of subjects whose extradition may be demanded whether under the law or under the terms of a treaty by the Native States. From this part of the enquiry it is convenient to eliminate the first class, *namely*, the subjects of the independent State. he independent State becomes an extradition interpretation of our treaties and by the ordinary rules ated by the the demands of foreign Powers. Within the limits, however, of British India, a distinction is subjects, Native British being subjects of the tion.

7. European British subjects within the Native States of India in alliance with Her Majesty and British Indian law—see 3, and Act XXI of 1879, independent State has a right with any persons resident But this right has never been admitted as inherent in any Native State within India. The right of extraterritoriality belongs to every European British subject in the feudatory Native States of India; and, as such subjects are amenable to the Courts of British India for offences committed by them in Native States, no question of extradition arises. Act II of 1869 is repealed, and anyhow we are speaking of extradition to a Native State, which assumes the European British subject to be in British territory.

8. As regards Native British subjects, the Extradition Acts make no legal distinction between them and the subjects of Native States.

* This statement is not quite accurate. Treaty procedure must be observed, but in many cases supplemental agreements have been made, substituting the procedure under the Act for the procedure under the treaty—see *Indian Judicial Practice*, Vol. III, section 366.

Appendix III.

19. The Governor General in Council or the Local Government may authorise the reception, detention or imprisonment in any place in British India, or in any place under such Government, as the case may be, for the period specified in their respective sentences, of persons sentenced within the territories of any Native Prince or State under the suzerainty of Her Majesty to imprisonment or transportation for any of the following offences:—

counterfeiting coin,
uttering counterfeit coin,
murder,
culpable homicide not amounting to murder,
being a thug,
voluntarily causing grievous hurt,
administering poison,
kidnapping,
selling minors for purposes of prostitution,
rape,
robbery,
dacoity,
dacoity with murder,
robbery or dacoity with attempt to cause death or grievous hurt,
attempt to commit robbery or dacoity when armed with a deadly weapon,
making preparation to commit dacoity,
belonging to a gang of dacoits,
dishonest misappropriation of property,
breach of trust,
house-burning,
house-breaking,
forgery, and
theft of cattle,

or for any other act (referred to in this section as an offence) which would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code mentioned in the schedule to the Foreign Jurisdiction and Extradition Act, 1878, ^{XLV of 1862.}
or for an attempt to commit any of the above offences, ^{XXI of 1879.}

or for

or for abetment, within the meaning of the Indian Penal Code, of suicide by burning or burying alive, or of any of the other offences above specified,

or for such other offences as the Governor General in Council, from time to time, by order published in the Gazette of India, thinks fit to prescribe

Provided that such sentences have been pronounced after trial before a tribunal of which the presiding Judge, or, if the Court consisted of more than one Judge, at least one of such Judges, was an officer of the British Government authorised to act as such Judge by the Native Prince or State or by the Governor General in Council.

20 Every officer of Government so authorized as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the Place where the sentence of imprisonment or transportation is carried into effect.

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THE CRIMINAL TRIBES ACT, 1911 (III OF 1911).

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THE SCHEDULE.

ACT No. III OF 1911.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 1st March 1911.)

An Act to amend the law relating to the registration, surveillance and control of Criminal Tribes.

WHEREAS it is expedient to amend the law relating to the registration, surveillance and control of criminal tribes; It is hereby enacted as follows :

Preliminary.

1. (1) This Act may be called the Criminal Tribes Act, 1911; and Short title and extent.

(2) It extends to the whole of British India.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(1) "criminal tribe" means a tribe, gang or class of persons declared to be a criminal tribe by a notification under section 3;

(2) "prescribed" means prescribed by rules under this Act; and

(3) "tribe," "gang" or "class" includes any part or members of a tribe, gang or class.

Notification of Criminal Tribes.

3. If the Local Government has reason to believe that any tribe, gang or class of persons is addicted to the systematic commission of non-bailable offences, it may, by notification in the local official Gazette, declare that such tribe, gang or class is a criminal tribe for the purposes of this Act. Power to declare any tribe, gang or class a criminal tribe.

Registration

*(Registration of Members of Criminal Tribes)**Registration of Members of Criminal Tribes*

Registration
of members
of criminal
tribes

4. The Local Government may direct the District Magistrate to make or to cause to be made a register of the members of any criminal tribe or of any part thereof within his district

Procedure
in making
register

5. Upon receiving such direction, the District Magistrate shall publish a notice in the prescribed manner at the place where the register is to be made and at such other places as he may think fit, calling upon all the members of such criminal tribe, or of such part thereof as is directed to be registered,—

- (a) to appear at a time and place therein specified before a person appointed by him in this behalf,
- (b) to give to that person such information as may be necessary to enable him to make the register, and
- (c) to allow their finger impressions to be recorded

Provided that the District Magistrate may exempt any individual member of such criminal tribe or part thereof from registration

Charge of
register

6. The register, when made, shall be placed in the keeping of the Superintendent of Police, who shall, from time to time, report to the District Magistrate any alterations which ought in his opinion to be made therein, either by way of addition or erasure

Alterations in
register

7. (1) After the register has been placed in the keeping of the Superintendent of Police no person shall be added to the register, and no registration shall be cancelled except by or by the order in writing of the District Magistrate

(2) Before the name of any person is added to the register under this section, the Magistrate shall give notice

*(Registration of Members of Criminal Tribes
Restriction of Movements of Criminal Tribes)*

notice in the prescribed manner to the person concerned—

- (a) to appear before him or a person appointed by him in this behalf at a time and place therein specified,
- (b) to give him or such person such information as may be necessary to enable him to make the entry, and
- (c) to allow his finger-impressions to be recorded.

8. Any person deeming himself aggrieved by any entry made, or proposed to be made, in such register either when the register is first made or subsequently, may complain to the District Magistrate against such entry, and the Magistrate shall retain such person's name on the register, or enter it therein, or erase it therefrom, as he may see fit.

Complaints of entries in register

9. The District Magistrate or any officer empowered by him in this behalf may at any time order the finger-impressions of a registered member of a criminal tribe to be taken

Power to take finger-impressions at any time.

10. The Local Government may, by notification in the local official Gazette, direct in respect of any criminal tribe that every registered member thereof shall, in the prescribed manner,—

Members of criminal tribes to report themselves or notify residence

- (a) report himself at fixed intervals; or
- (b) notify his place of residence and any change or intended change of residence and any absence or intended absence from his residence.

Restriction of Movements of Criminal Tribes.

11. (1) If the Local Government considers that it is expedient that any criminal tribe should be—
- (a) restricted in its movements to any specified area, or
 - (b) settled in any place of residence,

Procedure when deemed expedient to restrict movements of, or settle, criminal tribes.

it

(Restriction of Movements of Criminal Tribes.)

it may report the case for the orders of the Governor General in Council.

(2) Every such report shall state—

- (i) the nature and the circumstances of the offences in which the members of the criminal tribe are believed to have been concerned, and the reasons for such belief;
- (ii) whether such criminal tribe follows any lawful occupation, and whether such occupation is in the opinion of the Local Government the real occupation of such criminal tribe, or a pretence for the purpose of facilitating the commission of crimes, and the grounds on which such opinion is based;
- (iii) the area to which it is proposed to restrict the movements of such criminal tribe, or the place of residence in which it is proposed to settle it; and
- (iv) the manner in which it is proposed that such criminal tribe shall earn its living within the restricted area or in the settlement, and the arrangements which are proposed to be made therefor.

Notification
restricting
movements of,
or settling,
tribe.

12. If on the consideration of any such report the Governor General in Council is satisfied—

- (a) that it is expedient to restrict the movements of such criminal tribe, or to settle it in a place of residence, and
- (b) that the means by which it is proposed that such criminal tribe shall earn its living are adequate,

he may authorize the Local Government to publish in the local official Gazette a notification declaring that such criminal tribe shall be restricted in its movements

(Restriction of Movements of Criminal Tribes Settlements and Schools)

movements to the area specified¹ or shall be settled in the place of residence specified, and the Local Government may publish a notification accordingly.

13. The Local Government may at any time by a like notification vary the terms of any notification published by it under section 12 by specifying another area to which the movements of the criminal tribe shall be restricted, or another place of residence in which it shall be settled Power to vary specified area or place of residence

14. Every registered member of a criminal tribe, whose movements have been restricted or which has been settled in a place of residence, shall attend at such place and at such time and before such person as may be prescribed in this behalf Verification of presence of members of tribe within prescribed area or place of residence

15. When the area to which the movements of a criminal tribe or any members thereof are restricted, or the place of residence in which a criminal tribe is settled, is situated in a district other than that in which the register mentioned in section 4 was prepared, the register shall be transferred to the Superintendent of Police of the district in which the said area is situated, and the District Magistrate of the said district shall thereupon be empowered to exercise the powers provided in sections 7, 8 and 9. Transfer of register in certain cases

Settlements and Schools

16. The Governor General in Council or the Local Government may establish industrial, agricultural or reformatory settlements and may place therein any criminal tribe or any part thereof, in respect of which a notification has been published under section 12. Power to place tribe in settlement

17. (1) The Local Government may establish industrial, agricultural or reformatory schools for children and may separate and remove from their parents or guardians and place in such schools the children of members of any criminal tribe in respect Power to place children in schools and to apprentice them

of

of which a notification has been published under section 12

(2) For every school established under sub section (1), a Superintendent shall be appointed by the Local Government

(3) The provisions of sections 18 to 22 (both inclusive) of the Reformatory Schools Act, 1897, shall, so far as may be apply in the case of every school for children established under this section as if the Superintendent of such school were a Superintendent and the children placed in such school were youthful offenders within the meaning of that Act

(4) For the purposes of this section the term "children" includes all persons under the age of eighteen and above the age of six years

(5) The decision of the District Magistrate as to the age of any person for the purposes of this section shall be final

Power of
Local Gov-
ernment to
discharge or
remove
persons from
settlement
or school.

18 The Local Government may at any time, by general or special order, direct any person who may be in any industrial, agricultural or reformatory settlement or school in the Province,—

(a) to be discharged, or

(b) to be removed to some other like settlement or school in the Province

Power of
Governor
General
in Council
to direct the
use of any settle-
ment or
school in
British India
for reception
of persons

19. The Governor General in Council may, by like order, direct that any person to whom the provisions of section 16 or section 17 are applicable may be placed in, or transferred to, any industrial, agricultural or reformatory settlement or school in any part of British India

Rules

Power to
make rules

20. (1) The Local Government may make rules to carry out the purposes and objects of this Act

(2) In

(Rules)

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for and regulate—

- (a) the form and contents of the register prescribed in section 4,
- (b) the mode in which the notice prescribed in section 5 shall be published and the means by which the persons whom it concerns, and the village-headmen, village watchmen and landowners or occupiers of the village in which such persons reside, or the agents of such landowners or occupiers, shall be informed of its publication;
- (c) the addition of names to the register and the erasure of names therein, and the mode in which the notice prescribed in section 7 shall be given;
- (d) the mode in which persons mentioned in section 10 shall report themselves, or notify their residence or any change or intended change of residence or any absence or intended absence;
- (e) the nature of the restrictions to be observed by persons whose movements have been restricted by notification under section 12 or section 13;
- (f) the conditions as to holding passes under which persons may be permitted to leave the place in which they are settled or confined or the area to which their movements are restricted;
- (g) the conditions to be inserted in any such pass in regard to—
 - (i) the places where the holder of the pass may go or reside;
 - (ii) the persons before whom, from time to time, he shall be bound to present himself; and

(iii) the

Criminal Tribes
(*Penalties and Procedure*)

[ACT III]

- (iii) the time during which he may absent himself,
- (h) the place and time at which and the persons before whom members of a criminal tribe shall attend in accordance with the provisions of section 14,
- (i) the inspection of the residences and villages of any criminal tribe,
- (j) the terms upon which registered members of criminal tribes may be discharged from the operation of this Act,
- (k) the management, control and supervision of industrial, agricultural or reformatory settlements and schools,
- (l) the works on which, and the hours during which, persons placed in an industrial, agricultural or reformatory settlement shall be employed, the rate at which they shall be paid, and the disposal, for the benefit of such persons of the surplus proceeds of their labour, and
- (m) the discipline to which persons endeavouring to escape from any industrial, agricultural or reformatory settlement or school, or otherwise offending against the rules for the time being in force, shall be subject, the periodical visitation of such settlement or school and the removal from it of such persons as it shall seem expedient to remove

Penalties and Procedure

21. Whoever, being a member of a criminal tribe, without lawful excuse, the burden of proving which shall lie upon him,—

- (a) fails to appear in compliance with a notice issued under section 5 or section 7, or
- (b) intentionally

Penalties for failure to comply with terms of notice under section 5 or 7

(Penalties and Procedure.)

- (b) intentionally omits to furnish any information required under those sections, or,
- (c) when required to furnish information under either of those sections, furnishes as true any information which he knows or has reason to believe to be false, or
- (d) refuses to allow his finger-impressions to be taken,

may be arrested without warrant, and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

22. (1) Whoever, being a registered member of a criminal tribe, violates a rule made under clause (e), clause (f) or clause (g) of section 20 shall be punishable with imprisonment for a term which may extend,—

Penalties for breach of rules

- (a) on a first conviction, to one year,
- (b) on a second conviction, to two years, and
- (c) on any subsequent conviction, to three years.

(2) Whoever, being a registered member of a criminal tribe, violates a rule made under any other clause of section 20 shall be punishable,—

- (a) on a first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both; and
- (b) on any subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

23. (1) Whoever, being a member of any criminal tribe, and, having been convicted of any of the offences under the Indian Penal Code specified in the Schedule, is hereafter convicted of the same or any

Enhanced punishment for certain offences by members of criminal

other

Criminal Tribes
(*Penalties and Procedure*)

[ACT III]

tribe
after previous
conviction

other offence specified in the said schedule, shall, in the absence of special reasons to the contrary to be mentioned in the judgment of the Court, be punished,—

(a) on a second conviction, with imprisonment for a term of not less than seven years, and

(b) on a third conviction, with transportation for life

(2) Nothing in this section shall affect the liability of such person to any further or other punishment to which he may be liable under the Indian Penal Code or any other law

Punishment
for registered
members of
criminal tribe
found under
suspicious
circumstances

24. Whoever, being a registered member of any criminal tribe, is found in any place under such circumstances as to satisfy the Court—

(a) that he was about to commit or aid in the commission of theft or robbery, or

(b) that he was waiting for an opportunity to commit theft or robbery,

shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine which may extend to one thousand rupees

Arrest of
registered
person found
beyond
prescribed
limits

25. (1) Whoever, being a registered member of a criminal tribe,—

(a) is found in any part of British India, beyond the area, if any, prescribed for his residence, without the prescribed pass, or in a place or at a time not permitted by the conditions of his pass; or

(b) escapes from an industrial, agricultural or reformatory settlement or school,

may be arrested without warrant by any police-officer, village headman or village watchman, and taken before

before a Magistrate who on proof of the facts shall order him to be removed to the district in which he ought to have resided or to the settlement or school from which he has escaped (as the case may be) there to be dealt with in accordance with this Act or any rules made thereunder

(2) The rules for the time being in force for the removal of prisoners shall apply to all persons removed under this section or under any other provision of this Act

Provided that an order from the Local Government or from the Inspector General of Prisons shall not be necessary for the removal of such persons

26 (1) Every village headman and village watchman in a village in which any persons belonging to a criminal tribe reside and every owner or occupier of land on which any such persons reside or the agent of any such owner or occupier shall forthwith communicate to the officer in charge of the nearest police station any information which he may obtain of—

(a) the failure of any such person to appear and give information as directed in section 5, or

(b) the departure of any registered member of a criminal tribe from such village or from such land (as the case may be)

(2) Every village headman and village watchman in a village and every owner or occupier of land or the agent of such owner or occupier shall forthwith communicate to the officer in charge of the nearest police station any information which he may obtain of the arrival at such village or on such land (as the case may be) of any persons who may reasonably be suspected of belonging to any criminal tribe—

27. Any village headman village watchman owner or occupier of land or the agent of such owner

Criminal Tribes [ACT III]
(*Supplemental The Schedule*)

or occupier, who fails to comply with the requirements of section 26, shall be deemed to have committed an offence punishable under the first part of section 176 of the Indian Penal Code

XLV of 1860

Supplemental

Bar of jur s
ction of
ourts in
questions
relating to
official o s
under sections
12 and 13

28 No Court of justice shall question the validity of any notification published under the provisions of section 3 section 12 or section 13 on the ground that the provisions hereinbefore contained or any of them have not been complied with or entertain in any form whatever the question whether they have been complied with, but every such notification shall be conclusive proof that it has been issued in accordance with law

repeals

29 The Criminal Tribes Act, 1871, the Criminal Tribes (Amendment) Act 1876, and the Criminal Tribes Act Amendment Act, 1897, are hereby repealed

XXVII of
1871
XII of 1876
II of 1897

THE SCHEDULE

(See section 23)

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THE INDIAN EXTRADITION ACT, 1903.
(XV OF 1903.)

AS MODIFIED UP TO 1st DECEMBER, 1904

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
1903

[Price Five Annas and Six Pies.]

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GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT.

THE INDIAN EXTRADITION ACT, 1903.
(XV OF 1903.)

AS MODIFIED UP TO 1st DECEMBER, 1904

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THE INDIAN EXTRADITION ACT, 1903 (XV OF 1903).

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CHAPTER VII.

SUPPLEMENTAL.

SECTIONS.

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 - 23. Detention of persons arrested under section 54, clause
seventhly, Act V, 1898.
 - 24. Repeals.
-

THE FIRST SCHEDULE — EXTRADITION OFFENCES.

THE SECOND SCHEDULE. — ENACTMENTS REPEALED.



ACT NO. XV OF 1903.¹

[4th November, 1903.]

An Act to consolidate and amend the law relating to the Extradition and Rendition of Criminals

WHEREAS it is expedient to provide for the more convenient administration in British India of the Extradition Acts, 1870 and 1873, and of the Fugitive Offenders Act, 1881 ;

33 & 34
Vict., c. 52,
36 & 37
Vict., c. 60;
14 & 43
Vict., c. 60.

and whereas it is also expedient to amend the law relating to the extradition of criminals in cases to which the Extradition Acts, 1870 and 1873, do not apply ;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Extradition Act, 1903.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of British India (including British Baluchistan, the Santhal Parganas and the Pargana of Spiti) ; and

(3) It shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, may direct.²

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) " European British subject " means a European British subject as defined by the Code of Criminal Procedure for the time being in force :

(b) " extradition

¹ For Statement of Objects and Reasons, see Gazette of India, 1901, Pt. V, p. 24; for Report of the Select Committee, see *ibid.*, 1903, Pt. V, p. 469; for Proceedings in Council, see *ibid.*, Pt. VI, pp. 151, 163 and 177.

² The Act has been declared to come into force from 1st June, 1904, see Gazette of India, 1904, Pt. I, p. 364.

(Chapter II.—Surrender of Fugitive Criminals in case of Foreign States.—Section 3.)

(3) When such criminal appears or is brought before the Magistrate, the Magistrate shall inquire into the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session or High Court, and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal, including any evidence to show that the crime of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime. Inquiry by Magistrate.

(4) If the Magistrate is of opinion that a *prima facie* case is made out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of the Government of India or the Local Government, as the case may be. Committal.

(5) If the Magistrate is of opinion that a *prima facie* case is not made out in support of the requisition, or if the case is one which is bailable under the provisions of the Code of Criminal Procedure for the time being in force, the Magistrate may release the fugitive criminal on bail. Bail

(6) The Magistrate shall report the result of his inquiry to the Government of India, or the Local Government, as the case may be, and shall forward, together with such report, any written statement which the fugitive criminal may desire to submit for the consideration of the Government. Magistrate's report.

(7) If the Government of India or the Local Government, as the case may be, is of opinion that such report or written statement raises an important question of law, it may make an order referring such question of law to such High Court as may be named in the order, and the fugitive criminal shall not be surrendered until such question has been decided. Reference to High Court if Government thinks necessary.

(8) If, upon receipt of such report and statement or upon the decision of any such question, the Government of India or the Local Government, as the Warrant for surrender.

(Chapter II.—Surrender of Fugitive Criminals in case of Foreign States.—Section 4.)

case may be, is of opinion that the fugitive criminal ought to be surrendered, it may issue a warrant for the custody and removal of such criminal and for his delivery at a place and to a person to be named in the warrant.

Lawfulness of custody and re-taking under warrant for surrender.

(9) It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (8), to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.

Discharge of fugitive criminals committed to prison after two months.

(10) If such a warrant as is prescribed by sub-section (8) is not issued and executed in the case of any fugitive criminal, who has been committed to prison under sub-section (4), within two months after such committal, the High Court may, upon application made to it on behalf of such fugitive criminal, and upon proof that reasonable notice of the intention to make such application has been given to the Government of India or the Local Government, as the case may be, order such criminal to be discharged, unless sufficient cause is shown to the contrary.

Power to Magistrate to issue warrant of arrest in certain cases.

4. (1) Where it appears to any Magistrate of the first class or any Magistrate specially empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is a fugitive criminal of a Foreign State, he may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the crime of which he is accused or has been convicted had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(2) The Magistrate shall forthwith report the issue of a warrant under this section to the Local Government.

(3) A

(Chapter II.—Surrender of Fugitive Criminals in case of Foreign States—Sections 5-6. Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.—Section 7.)

(3) A person arrested on a warrant issued under this section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under section 3, sub-section (1). Person arrested not to be detained unless order received.

(4) In the case of a person arrested or detained under this section the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the crime of which he is accused or has been convicted. Bail.

5. (1) If the Government of India or any Local Government is of opinion that the crime of which any fugitive criminal of a Foreign State is accused or alleged to have been convicted is of a political character, it may, if it think fit, refuse to issue any order under section 3, sub-section (1). Power of Government to refuse to issue order under section 3 when crime of political character.

(2) The Government of India or the Local Government may also at any time stay any proceedings taken under this Chapter and direct any warrant issued under this Chapter to be cancelled and the person for whose arrest such warrant has been issued to be discharged. Power of Government to discharge any person in custody at any time.

6. The expressions "the Police Magistrate" and "the Secretary of State" in section 3 of the Extradition Act, 1870,¹ shall be read as referring respectively to the Magistrate directed to inquire into a case under section 3 of this Act, and to the Government of India or the Local Government, as the case may be. References to "Police Magistrate" and "Secretary of State" in section 3 of Extradition Act, 1870.

CHAPTER III.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES OTHER THAN FOREIGN STATES.

7. (1) Where an extradition offence has been committed or is supposed to have been committed by a Issue of warrant by Political
person

¹ Printed Vol. I of the Collection of Statutes relating to India, p. 453. 9

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.—Section 8)

Agents in
certain
cases

person not being a European British subject in the territories of any State not being a Foreign State and such person escapes into or is in British India, and the Political Agent in or for such State issues a warrant addressed to the District Magistrate of any district in which such person is believed to be, for his arrest and delivery at a place and to a person or authority indicated in the warrant, such Magistrate shall act in pursuance of such warrant and may give directions accordingly.

Execution of
such warrant

(2) A warrant issued as mentioned in sub-section (1) shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall, unless released in accordance with the provisions of this Act, be forwarded to the place and delivered to the person or authority indicated in the warrant.

Proclamation
and attach-
ment in case
of persons
absconding

(3)¹ The provisions of the Code of Criminal Procedure for the time being in force in relation to proclamation and attachment in the case of persons absconding shall, with any necessary modifications, apply where any warrant has been received by a District Magistrate under this section as if the warrant had been issued by himself.

Release on
giving
security

8. (1) Where a Political Agent has directed by endorsement on any such warrant that the person for whose arrest it is issued may be released on executing a bond with sufficient sureties for his attendance before a person or authority indicated in this behalf in the warrant at a specified time and place, the Magistrate to whom the warrant is addressed shall on such security being given release such person from custody.

(2) Where

¹ The law relating to offences and to criminal procedure in force in British India has been declared to apply to all subjects of His Majesty for the purposes of any power or jurisdiction exercised under the Indian (Foreign Jurisdiction) Order in Council, 1862 see Gazette of India, 1864, Pt. I, p. 265.

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.—Sections 9-10.)

(2) Where security is taken under this section, the Magistrate shall certify the fact to the Political Agent who issued the warrant, and shall retain the bond. Magistrate to retain bond.

(3) If the person bound by any such bond does not appear at the time and place specified, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and handed over to any person authorized by the Political Agent to take him into custody. Re-arrest in case of default.

(4) In the case of any bond executed under this section, the Magistrate may exercise the powers conferred by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties Deposit in lieu of bond, and forfeiture of bonds

9. Where a requisition is made to the Government of India or to any Local Government by or on behalf of any State not being a Foreign State, for the surrender of any person accused of having committed an offence in the territories of such State, such requisition shall (except in so far as relates to the taking of evidence to show that the offence is of a political character or is not an extradition crime) be dealt with in accordance with the procedure prescribed by section 3 for requisitions made by the Government of any Foreign State as if it were a requisition made by any such Government under that section: Requisitions by States not being Foreign States

Provided that, if there is a Political Agent in or for any such State, the requisition shall be made through such Political Agent.

10. (1) If it appears to any Magistrate of the class or any Magistrate empowered by the Government in this behalf that a person within local limits of his jurisdiction is accused or suspected of having committed an offence in any State

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.—Section 11)

being a Foreign State and that such person may lawfully be surrendered to such State, or that a warrant may be issued for his arrest under section 7, the Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(2) The Magistrate shall forthwith report the issue of a warrant under this section, if the offence appears or is alleged to have been committed in the territories of a State for which there is a Political Agent, to such Political Agent and in other cases to the Local Government.

Limit of time of detention of person arrested

(3) A person arrested on a warrant issued under this section shall not, without the special sanction of the Local Government, be detained more than two months, unless within such period the Magistrate receives an order made with reference to such person in accordance with the procedure prescribed by section 9, or a warrant for the arrest of such person under section 7.

Bail.

(4) In the case of a person arrested or detained under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the offence with which he is charged.

Surrender of person accused of, or under going sentence for, offence in British India.

11. (1) A person accused of an offence committed in British India, not being the offence for which his surrender is asked, or undergoing sentence under any conviction in British India, shall not be surrendered in compliance with a warrant issued by a Political Agent under section 7 or a requisition made by or on behalf of any State not being a Foreign State under section 9, except on the condition that such person be re-surrendered

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.—Sections 12-15.)

re-surrendered to the Government of India or the Local Government, as the case may be, on the termination of his trial for the offence for which his surrender has been asked :

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death lawfully passed.

(2) On the surrender of a person undergoing sentence under a conviction in British India, his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender.

Suspension of sentence on surrender

12. The provisions of this Chapter with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in the territories of any State not being a Foreign State, has escaped into or is in British India before his sentence has expired.

Application of Chapter to convicted persons

13. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed, for the purposes of this Chapter, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly.

Abetment and attempt

14. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter, to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.

Lawfulness of custody and re-taking under warrant issued under Chapter

15. The Government of India or the Local Government may, by order, stay any proceedings taken under this Chapter, and may direct any warrant issued under this

Power of Government to stay proceedings and

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.—Sections 16-17.)

discharge persons in custody.
Application of Chapter to offences committed before its commencement.

Receipt in evidence of exhibits, depositions and other documents.

Authentication of the same.

this Chapter to be cancelled, and the person for whose arrest such warrant has been issued to be discharged.

16. The provisions of this Chapter shall apply to an offence or to an extradition offence, as the case may be, committed before the passing of this Act, and to an offence in respect of which a Court of British India has concurrent jurisdiction.

17. (1) In any proceedings under this Chapter, exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof, and official certificates of facts and judicial documents stating facts, may, if duly authenticated, be received as evidence.

(2) Warrants, depositions or statements on oath which purport to have been issued, received or taken by any Court of justice outside British India, or copies thereof and certificates of or judicial documents stating the fact of, conviction before any such Court, shall be deemed duly authenticated,—

- (a) if the warrant purports to be signed by a Judge, Magistrate or officer of the State where the same was issued or acting in or for such State :
- (b) if the depositions or statements or copies thereof purport to be certified, under the hand of a Judge, Magistrate or officer of the State where the same were taken, or acting in or for such State, to be the original depositions or statements or to be true copies thereof, as the case may require :
- (c) if the certificate of, or judicial document stating the fact of, a conviction purports to be certified by a Judge, Magistrate or officer of the State where the conviction took place or acting in or for such State :
- (d) if the warrants, depositions, statements, copies, certificates and judicial documents,

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.—Section 18. Chapter IV.—Rendition of Fugitive Offenders in His Majesty's Dominions.—Section 19.)

as the case may be, are authenticated by the oath of some witness or by the official seal of a minister of the State where the same were respectively issued, taken or given.

(3) For the purposes of this section, "warrant" Definition of "warrant." includes any judicial document authorizing the arrest of any person accused or convicted of an offence.

18. Nothing in this Chapter shall derogate from the provisions of any treaty for the extradition of offenders, and the procedure provided by any such treaty shall be followed in any case to which it applies, and the provisions of this Act shall be modified accordingly. Chapter not to derogate from treaties.

CHAPTER IV.¹

RENDITION OF FUGITIVE OFFENDERS IN HIS MAJESTY'S DOMINIONS.

19. For the purpose of applying and carrying into effect in British India the provisions of the Fugitive Offenders Act, 1881,² the following provisions are hereby made:— Application of Fugitive Offenders Act, 1881.

- (a) the powers conferred on "Governors" of British possessions may be exercised by any Local Government:
- (b) the powers conferred on a "Superior Court" may be exercised by any Judge of a High Court:
- (c) the powers conferred on a "Magistrate" may be exercised by any Magistrate of the first class

¹ An Order in Council, dated 7th March, 1904, declares that Chapter IV shall be recognised and be given effect to throughout His Majesty's Dominions and on the high seas as if it were a part of the Fugitive Offenders Act, 1881 (44 & 45 Vict. c. 69).

² Printed, Vol. II of the Collection of Statutes relating to India, p. 734.

(Chapter V.—Offences committed at Sea.—Section 20.
Chapter VI.—Execution of Commissions issued
by Criminal Courts outside British India.—Sec-
tion 21.)

class or by any Magistrate empowered by
the Local Government in that behalf: and

- (d) the offences committed in British India to
which the Act applies, are piracy, treason
and any offence punishable under the
¹Indian Penal Code with rigorous imprison- ^{XLV of}
ment for a term of twelve months or more ¹⁸⁶⁰
or with any greater punishment.

CHAPTER V.

OFFENCES COMMITTED AT SEA.

Requisition
for surrender
in case of
offence
committed at
sea.

20. Where the Government of any State outside
India makes a requisition for the surrender of a person
accused of an offence committed on board any vessel
on the high seas which comes into any port of British
India, the Local Government and any Magistrate
having jurisdiction in such port and authorized by
the Local Government in this behalf may exercise
the powers conferred by this Act.

CHAPTER VI.

EXECUTION OF COMMISSIONS ISSUED BY CRIMINAL COURTS OUTSIDE BRITISH INDIA.

Execution of
commissions
issued by
Criminal
Courts
outside
British India

21. The testimony of any witness may be obtain-
ed in relation to any criminal matter pending in any
Court or tribunal in any country or place outside
British India in like manner as it may be obtained in
any civil matter under the provisions of the Code of
Civil Procedure for the time being in force with
respect to commissions, and the provisions of that Code
relating

¹ See the revised edition of the Act as modified up to 1st April 1903.

(Chapter VII.—Supplemental —Sections 22-23)

relating thereto shall be construed as if the term "suit" included a criminal proceeding :

Provided that this section shall not apply when the evidence is required for a court or tribunal in any State outside India other than a British Court and the offence is of a political character.

CHAPTER, VII.

SUPPLEMENTAL.

22. (1) The Governor General in Council may make rules¹ to carry out the purposes of this Act Power to make rules

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the removal of prisoners accused or in custody under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them ;

(b) the seizure and the disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies ;

(c) the pursuit and arrest in British India, by officers of the Government or other persons authorized in this behalf, of persons accused of offences committed elsewhere ; and

(d) the procedure and practice to be observed in extradition proceedings

(3) Rules made under this section shall be published in the Gazette of India and shall thereupon have effect as if enacted by this Act.

23. Notwithstanding anything in the Code of Criminal Procedure, 1898,² any person arrested Defence of persons arrested under act. without

¹ For rules, see Gazette of India, 1904, Pt. I, p. 34

² See now the revised edition of the Code as modified up to 1st April,

(Chapter VII.—Supplemental —Section 24 The
First Schedule.—Extradition Offences.)

54, clause
seventhly,
Act V, 1898

without an order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause *seventhly*, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 10.

Repeals

24. The Acts mentioned in the second schedule are repealed to the extent specified in the fourth column thereof.

THE FIRST SCHEDULE

EXTRADITION OFFENCES.

[See section 2, clause (b), and Chapter III (Surrender of Fugitive Criminals in case of States other than Foreign States)]

[The sections referred to are the sections of the Indian Penal Code]

Frauds upon creditors (section 206)

Resistance to arrest (section 224)

Offences relative to coin and stamps (sections 230 to 263A).

o 304).

Causing miscarriage, and abandonment of child (sections 312 to 317).

Causing hurt (sections 323 to 333)

77).

414).

Fraudulent deeds, etc (sections 421 to 424)

Mischief (sections 425 to 440).

Lurking house-trespass (sections 443, 446)

Forgery, using forged documents, etc (sections 463 to 477A).

Desertion from any body of Imperial Service Troops.

Piracy by law of nations

Sinking or destroying a vessel at sea or attempting or conspiring to do so.

Assault

(The Second Schedule — Enactments repealed.)

Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

XLV of 1860. Any offence against any section of the Indian Penal Code or against any other law which may, from time to time, be specified by the Governor General in Council by notification in the Gazette of India either generally for all States or specially for any one or more States

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(See section 21)

Year	No.	Short title	Extent of repeal.
1879	XXI	The Foreign Jurisdiction and Extradition Act, 1879	So much as is unrepealed
1895	IX	The Extradition (India) Act, 1895	The whole Act
1896	V	The Foreign Jurisdiction and Extradition Act (1879) Amendment Act, 1896	The whole Act



THE CRIMINAL TRIBES ACT, 1911 (III OF 1911).

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*(Registration of Members of Criminal Tribes.)**Registration of Members of Criminal Tribes.*

Registration
of members
of criminal
tribes.

4. The Local Government may direct the District Magistrate to make or to cause to be made a register of the members of any criminal tribe or of any part thereof within his district.

Procedure
in making
register

5. Upon receiving such direction, the District Magistrate shall publish a notice in the prescribed manner at the place where the register is to be made and at such other places as he may think fit, calling upon all the members of such criminal tribe, or of such part thereof as is directed to be registered,—

- (a) to appear at a time and place therein specified before a person appointed by him in this behalf;
- (b) to give to that person such information as may be necessary to enable him to make the register; and
- (c) to allow their finger-impressions to be recorded.

Provided that the District Magistrate may exempt any individual member of such criminal tribe or part thereof from registration.

Charge of
register.

6. The register, when made, shall be placed in the keeping of the Superintendent of Police, who shall, from time to time, report to the District Magistrate any alterations which ought in his opinion to be made therein, either by way of addition or erasure.

Alterations in
register.

7. (1) After the register has been placed in the keeping of the Superintendent of Police no person shall be added to the register, and no registration shall be cancelled except by or by the order in writing of the District Magistrate.

(2) Before the name of any person is added to the register under this section, the Magistrate shall give notice

(Registration of Members of Criminal Tribes
Restriction of Movements of Criminal Tribes)

notice in the prescribed manner to the person concerned—

- (a) to appear before him or a person appointed by him in this behalf at a time and place therein specified,
- (b) to give him or such person such information as may be necessary to enable him to make the entry, and
- (c) to allow his finger impressions to be recorded

8 Any person deeming himself aggrieved by any entry made or proposed to be made, in such register either when the register is first made or subsequently, may complain to the District Magistrate against such entry, and the Magistrate shall retain such person's name on the register, or enter it therein or erase it therefrom, as he may see fit

Complaints of entries in register

9 The District Magistrate or any officer empowered by him in this behalf may at any time order the finger impressions of a registered member of a criminal tribe to be taken

Power to take finger impressions at any time

10 The Local Government may, by notification in the local official Gazette, direct in respect of any criminal tribe that every registered member thereof shall, in the prescribed manner,—

Members of criminal tribes to report themselves or not by residence

- (a) report himself at fixed intervals, or
- (b) notify his place of residence and any change or intended change of residence and any absence or intended absence from his residence

Restriction of Movements of Criminal Tribes

11. (1) If the Local Government considers that it is expedient that any criminal tribe should be—

Procedure when deemed expedient to restrict movements of, or of the, criminal tribes.

- (a) restricted in its movements to any specified area, or
- (b) settled in any place of residence,

(Restriction of Movements of Criminal Tribes)

it may report the case for the orders of the Governor General in Council

(2) Every such report shall state—

- (i) the nature and the circumstances of the offences in which the members of the criminal tribe are believed to have been concerned, and the reasons for such belief,
- (ii) whether such criminal tribe follows any lawful occupation, and whether such occupation is in the opinion of the Local Government the real occupation of such criminal tribe, or a pretence for the purpose of facilitating the commission of crimes, and the grounds on which such opinion is based,
- (iii) the area to which it is proposed to restrict the movements of such criminal tribe, or the place of residence in which it is proposed to settle it, and
- (iv) the manner in which it is proposed that such criminal tribe shall earn its living within the restricted area or in the settlement and the arrangements which are proposed to be made therefor

Notification on
restricting
movements of
or settling
tribe

12 If on the consideration of any such report the Governor General in Council is satisfied—

- (a) that it is expedient to restrict the movements of such criminal tribe, or to settle it in a place of residence, and
- (b) that the means by which it is proposed that such criminal tribe shall earn its living are adequate,

he may authorize the Local Government to publish in the local official Gazette a notification declaring that such criminal tribe shall be restricted in its movements

*(Restriction of Movements of Criminal Tribes.
Settlements and Schools.)*

movements to the area specified or shall be settled in the place of residence specified, and the Local Government may publish a notification accordingly.

13. The Local Government may at any time by a like notification vary the terms of any notification published by it under section 12 by specifying another area to which the movements of the criminal tribe shall be restricted, or another place of residence in which it shall be settled.

Power to vary specified area or place of residence.

14. Every registered member of a criminal tribe, whose movements have been restricted or which has been settled in a place of residence, shall attend at such place and at such time and before such person as may be prescribed in this behalf.

Verification of presence of members of tribe within prescribed area or place of residence

15. When the area to which the movements of a criminal tribe or any members thereof are restricted, or the place of residence in which a criminal tribe is settled, is situated in a district other than that in which the register mentioned in section 4 was prepared, the register shall be transferred to the Superintendent of Police of the district in which the said area is situated, and the District Magistrate of the said district shall thereupon be empowered to exercise the powers provided in sections 7, 8 and 9.

Transfer of register in certain cases.

Settlements and Schools.

16. The Governor General in Council or the Local Government may establish industrial, agricultural or reformatory settlements and may place therein any criminal tribe or any part thereof, in respect of which a notification has been published under section 12.

Power to place tribe in settlement.

17. (1) The Local Government may establish industrial, agricultural or reformatory schools for children and may separate and remove from their parents or guardians and place in such schools the children of members of any criminal tribe in respect of

Power to place children in schools and to apprentice them

(Restriction of Movements of Criminal Tribes.)

it may report the case for the orders of the Governor General in Council.

(2) Every such report shall state—

- (i) the nature and the circumstances of the offences in which the members of the criminal tribe are believed to have been concerned, and the reasons for such belief;
- (ii) whether such criminal tribe follows any lawful occupation, and whether such occupation is in the opinion of the Local Government the real occupation of such criminal tribe, or a pretence for the purpose of facilitating the commission of crimes, and the grounds on which such opinion is based;
- (iii) the area to which it is proposed to restrict the movements of such criminal tribe, or the place of residence in which it is proposed to settle it; and
- (iv) the manner in which it is proposed that such criminal tribe shall earn its living within the restricted area or in the settlement, and the arrangements which are proposed to be made therefor.

Notification
restricting
movements of,
or settling,
tribe

12. If on the consideration of any such report the Governor General in Council is satisfied—

- (a) that it is expedient to restrict the movements of such criminal tribe, or to settle it in a place of residence, and
- (b) that the means by which it is proposed that such criminal tribe shall earn its living are adequate,

he may authorize the Local Government to publish in the local official Gazette a notification declaring that such criminal tribe shall be restricted in its movements

(Restriction of Movements of Criminal Tribes Settlements and Schools)

movements to the area specified or shall be settled in the place of residence specified and the Local Government may publish a notification accordingly

13 The Local Government may at any time by a like notification vary the terms of any notification published by it under section 12 by specifying another area to which the movements of the criminal tribe shall be restricted or another place of residence in which it shall be settled

Power to vary specified area or place of residence

14 Every registered member of a criminal tribe whose movements have been restricted or which has been settled in a place of residence shall attend at such place and at such time and before such person as may be prescribed in this behalf

Verification of presence of members of tribe within prescribed area or place of residence

15 When the area to which the movements of a criminal tribe or any members thereof are restricted or the place of residence in which a criminal tribe is settled is situated in a district other than that in which the register mentioned in section 4 was prepared the register shall be transferred to the Superintendent of Police of the district in which the said area is situated and the District Magistrate of the said district shall thereupon be empowered to exercise the powers provided in sections 7, 8 and 9

Transfer of register in certain cases.

Settlements and Schools

16 The Governor General in Council or the Local Government may establish industrial agricultural or reformatory settlements and may place therein any criminal tribe or any part thereof in respect of which a notification has been published under section 12

Power to place tribes in settlements

17 (1) The Local Government may establish industrial agricultural or reformatory schools for children and may separate and remove from their parents or guardians and place in such schools the children of members of any criminal tribe in respect

Power to place children in schools and to apprentice them

(Settlements and Schools. Rules.)

of which a notification has been published under section 12.

(2) For every school established under sub-section (1), a Superintendent shall be appointed by the Local Government.

(3) The provisions of sections 18 to 22 (both inclusive) of the Reformatory Schools Act, 1897, shall, so far as may be, apply in the case of every school for children established under this section as if the Superintendent of such school were a Superintendent and the children placed in such school were youthful offenders within the meaning of that Act.

(4) For the purposes of this section the term "children" includes all persons under the age of eighteen and above the age of six years.

(5) The decision of the District Magistrate as to the age of any person for the purposes of this section shall be final.

Power of
Local Gov-
ernment to
discharge or
remove
persons from
settlement
or school

18. The Local Government may at any time, by general or special order, direct any person who may be in any industrial, agricultural or reformatory settlement or school in the Province,—

(a) to be discharged, or

(b) to be removed to some other like settlement or school in the Province.

Power of
Governor
General
in Council
to direct use
of any settle-
ment or
school in
British India
for reception
of persons

19. The Governor General in Council may, by like order, direct that any person to whom the provisions of section 16 or section 17 are applicable may be placed in, or transferred to, any industrial, agricultural or reformatory settlement or school in any part of British India.

Rules.

Power to
make rules.

20. (1) The Local Government may make rules to carry out the purposes and objects of this Act.

(2) In

(Rules.)

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for and regulate—

- (a) the form and contents of the register prescribed in section 4;
- (b) the mode in which the notice prescribed in section 5 shall be published and the means by which the persons whom it concerns, and the village-headmen, village-watchmen and landowners or occupiers of the village in which such persons reside, or the agents of such landowners or occupiers, shall be informed of its publication;
- (c) the addition of names to the register and the erasure of names therein, and the mode in which the notice prescribed in section 7 shall be given;
- (d) the mode in which persons mentioned in section 10 shall report themselves, or notify their residence or any change or intended change of residence or any absence or intended absence;
- (e) the nature of the restrictions to be observed by persons whose movements have been restricted by notification under section 12 or section 13;
- (f) the conditions as to holding passes under which persons may be permitted to leave the place in which they are settled or confined or the area to which their movements are restricted;
- (g) the conditions to be inserted in any such pass in regard to—
 - (i) the places where the holder of the pass may go or reside;
 - (ii) the persons before whom, from time to time, he shall be bound to present himself; and

(iii).

(Penalties and Procedure.)

- (iii) the time during which he may absent himself;
- (h) the place and time at which and the persons before whom members of a criminal tribe shall attend in accordance with the provisions of section 14;
- (i) the inspection of the residences and villages of any criminal tribe;
- (j) the terms upon which registered members of criminal tribes may be discharged from the operation of this Act;
- (k) the management, control and supervision of industrial, agricultural or reformatory settlements and schools;
- (l) the works on which, and the hours during which, persons placed in an industrial, agricultural or reformatory settlement shall be employed, the rate at which they shall be paid, and the disposal, for the benefit of such persons, of the surplus proceeds of their labour; and
- (m) the discipline to which persons endeavouring to escape from any industrial, agricultural or reformatory settlement or school, or otherwise offending against the rules for the time being in force, shall be subject, the periodical visitation of such settlement or school and the removal from it of such persons as it shall seem expedient to remove.

Penalties and Procedure.

Penalties for failure to comply with terms of notice under section 5 or 7.

21. Whoever, being a member of a criminal tribe, without lawful excuse, the burden of proving which shall lie upon him,—

- (a) fails to appear in compliance with a notice issued under section 5 or section 7, or
- (b) intentionally

(Penalties and Procedure)

- (b) intentionally omits to furnish any information required under those sections, or,
- (c) when required to furnish information under either of those sections, furnishes as true any information which he knows or has reason to believe to be false, or
- (d) refuses to allow his finger-impressions to be taken,

may be arrested without warrant, and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees or with both

22. (1) Whoever, being a registered member of a criminal tribe, violates a rule made under clause (e), clause (f) or clause (g) of section 20 shall be punishable with imprisonment for a term which may extend,—

Penalties for breach of rules

- (a) on a first conviction, to one year,
- (b) on a second conviction, to two years, and
- (c) on any subsequent conviction, to three years.

(2) Whoever, being a registered member of a criminal tribe, violates a rule made under any other clause of section 20 shall be punishable,—

- (a) on a first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both, and
- (b) on any subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both

23. (1) Whoever, being a member of any criminal tribe, and, having been convicted of any of the offences under the Indian Penal Code specified in the Schedule, is hereafter convicted of the same or any

Enhanced punishment for certain offences by members of criminal

Criminal Tribes
(Penalties and Procedure)

[ACT III]

to be
after previous
conviction

other offence specified in the said schedule, shall, in the absence of special reasons to the contrary to be mentioned in the judgment of the Court, be punished,—

(a) on a second conviction, with imprisonment for a term of not less than seven years, and

(b) on a third conviction, with transportation for life

(2) Nothing in this section shall affect the liability of such person to any further or other punishment to which he may be liable under the Indian Penal Code or any other law

Punishment
for registered
members of
criminal tribe
found under
suspicious
circumstances

24. Whoever, being a registered member of any criminal tribe, is found in any place under such circumstances as to satisfy the Court—

(a) that he was about to commit, or aid in the commission of, theft or robbery, or

(b) that he was waiting for an opportunity to commit theft or robbery,

shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine which may extend to one thousand rupees

25. (1) Whoever, being a registered member of a criminal tribe,—

(a) is found in any part of British India, beyond the area, if any, prescribed for his residence, without the prescribed pass, or in a place or at a time not permitted by the conditions of his pass, or

(b) escapes from an industrial, agricultural or reformatory settlement or school,

may be arrested without warrant by any police-officer, village headman or village watchman, and taken before

Arrest of
registered
person found
beyond
prescribed
limits

before a Magistrate, who on proof of the facts shall order him to be removed to the district in which he ought to have resided or to the settlement or school from which he has escaped (as the case may be) there to be dealt with in accordance with this Act or any rules made thereunder

(2) The rules for the time being in force for the removal of prisoners shall apply to all persons removed under this section or under any other provision of this Act

Provided that an order from the Local Government or from the Inspector General of Prisons shall not be necessary for the removal of such persons

26 (1) Every village headman and village watchman in a village in which any persons belonging to a criminal tribe reside and every owner or occupier of land on which any such persons reside or the agent of any such owner or occupier shall forthwith communicate to the officer in charge of the nearest police station any information which he may obtain of—

Duties of
village
headmen
village
watchmen
and owners or
occupiers of
land to give
information
in certain
cases

(a) the failure of any such person to appear and give information as directed in section 5 or

(b) the departure of any registered member of a criminal tribe from such village or from such land (as the case may be)

(2) Every village headman and village watchman in a village and every owner or occupier of land or the agent of such owner or occupier shall forthwith communicate to the officer in charge of the nearest police station any information which he may obtain of the arrival at such village or on such land (as the case may be) of any persons who may reasonably be suspected of belonging to any criminal tribes

27 Any village headman village watchman owner or occupier of land or the agent of such owner

Penalty for
breach of
such duties.

or

Criminal Tribes [ACT III
(*Supplemental The Schedule*)

or occupier, who fails to comply with the requirements of section 26, shall be deemed to have committed an offence punishable under the first part of section 176 of the Indian Penal Code ALV

Supplemental

Bar of jurisdiction of Courts in questions relating to offences under sections 3, 12 and 13

28 No Court of justice shall question the validity of any notification published under the provisions of section 3 section 12 or section 13 on the ground that the provisions hereinbefore contained or any of them have not been complied with or entertain in any form whatever the question whether they have been complied with but every such notification shall be conclusive proof that it has been issued in accordance with law

Repeals

29 The Criminal Tribes Act 1871, the Criminal Tribes (Amendment) Act 1876, and the Criminal Tribes Act Amendment Act, 1897, are hereby repealed XXVII of 1871
VI of 1876
II of 1897

THE SCHEDULE

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GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT

THE INDIAN PENAL CODE,
(ACT XLV OF 1860.)

AS MODIFIED UP TO THE 1ST JUNE, 1910, WITH AN INDEX.

.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING INDIA
1910

[ACT III, 1911]

mitting robbery.
to cause death

armed

IDENT OF REPEALS AND AMENDMENTS.

in part by	Act XIV of 1870 (Schedule),
ss. 131, 194, 195, 222, 223 and 307 amended,	Act XXVII of 1870, ss 1 12,
ss. 121A, 124A, 225A, 294A and 304A added, by	Act XIX of 1872, s 1,
ss. 178 and 181 amended by	Act X of 1873, s 15,
Illustration (a) to s 19 amended as to N W Provinces	Act XII of 1881, s 2,
by	Act VIII of 1882, ss 1 10,
ss. 40, 64, 67, 71, 73, 214, 309, 335, 410 and 435 amended	Act X of 1882 (Schedule),
by	Act X of 1886, ss 21, 23 and 24
Illustrations to s 214 repealed by	(1),
ss. 40, 64, 216 and 225A amended, and s 225B added,	Act XIV of 1887, s 79,
by	Act XVIII of 1887, s 18 (2),
Ss 138A added by	Act I of 1889, s 9,
Ss 162 and 163 amended by	Act IV of 1889, s 3,
Ss 28 amended by	Act XIII of 1889 (Schedule),
Ss 478 and 489 amended by	Act IV of 1890, s 149,
Explanation 1 to s 193 repealed in part by	Act V of 1891, s 1,
Ss 194 and 195 amended by	Act XII of 1891 (Schedule),
Ss 375 amended by	Act III of 1894, ss 5 8,
Ss 1, 2, 4, 15 and 410 repealed in part, and Illustration	Act III of 1895, ss 1 4,
(c) to s 307 amended, by	Act VI of 1896, s 1,
Ss 177, 203 and 212 amended, and ss 216A and 216B	Act IV of 1898, s 2,
added, by	Act III of 1910, s 2,
Ss 182 and 294 amended, and ss 263A and 477A added,	Act IV of 1898, s 3,
by	Act IV of 1898, s 4,
Ss 230 amended by	Act IV of 1898, s 5,
Ss 4 substituted by	Act IV of 1898, s 6,
Ss 75 substituted by	Act XII of 1899, s 2.
Ss 103A added by	Reg V of 1872, s 11.
Ss 124A substituted by	
Ss 153A added by	
Ss 505 substituted by	
Ss 489A, 489B, 489C and 489D added by	
In so far as this Code is inconsistent with the Sindh	
Frontier Regulation, 1872, it is superseded by that	
Regulation in the Sindh Frontier District by	

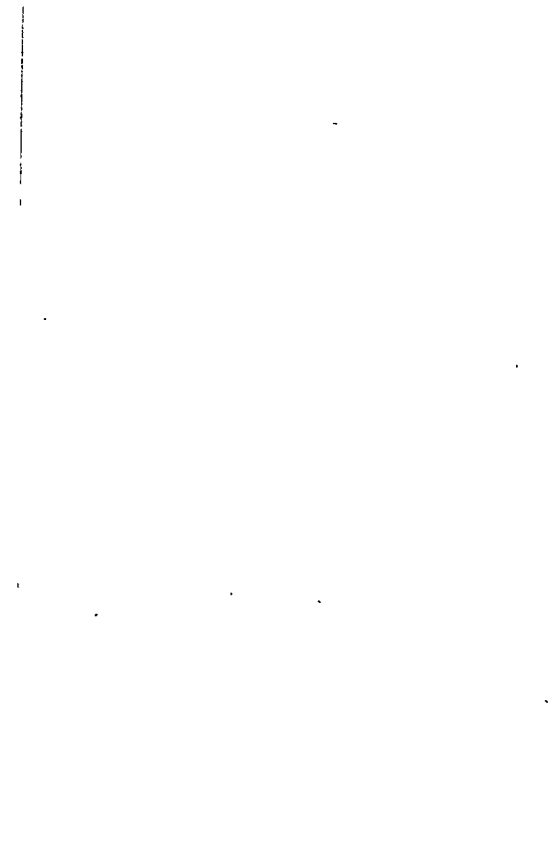
The following changes have been made in reprinting this Code.—

- (1) repealed matter has been omitted, explanatory notes being inserted, or, where this was not practicable, the repeal has been mentioned in a footnote
- (2) the amendments made by the Acts noted in the foregoing statement have been either inserted in the text, with explanatory footnotes, or noted in foot notes
- (3) some further footnotes have been inserted for convenience of reference.
- (4) the number and year of Acts referred to in the text have been noted in the inner margin, except where both appear in the text
- (5) the marginal notes have been revised
- (6) lengthy sections have sometimes been divided into clauses and paragraphs
- (7) the headings to the pages have been amended, and
- (8) an index has been added.



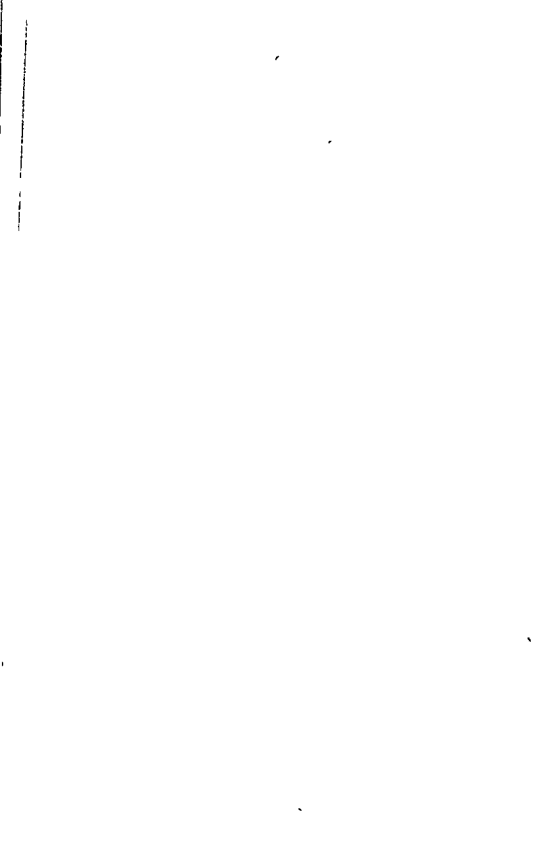
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- 150 Hiring, or conniving at hiring, of persons to join unlawful assembly
- 151 Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse
- 152 Recruiting or abducting public servant when suppressing riot, etc
- 153 Wantonly giving provocation with intent to cause riot—
 - if rioting be committed
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- 162 Taking gratification, in order, by corrupt or illegal means, to influence public servant
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- 201 Causing disappearance of evidence of offence, or giving false information, to screen offender—
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 if punishable with transportation for life, or with imprisonment
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- 221 Intentional omission to apprehend on the part of public servant bound to apprehend
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- 236 Abetting in India the counterfeiting out of India of coin
- 237 Import or export of counterfeit coin
- 238 Import or export of counterfeits of Queen's coin
- 239 Delivery of coin, possessed with knowledge that it is counterfeit
- 240 Delivery of Queen's coin, possessed with knowledge that it is counterfeit
- 241 Delivery of coin as genuine which, when first possessed, the deliverer did not know to be counterfeit
- 242 Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof
- 243 Possession of Queen's coin by person who knew it to be counterfeit when he became possessed thereof
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- 245 Unlawfully taking coining instrument from mint
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- 247 Fraudulently or dishonestly diminishing weight or altering composition of Queen's coin
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- 249 Altering appearance of Queen's coin with intent that it shall pass as coin of different description
- 250 Delivery of coin, possessed with knowledge that it is altered
- 251 Delivery of Queen's coin, possessed with knowledge that it is altered
- 252 Possession of coin by person who knew it to be altered when he became possessed thereof
- 253 Possession of Queen's coin by person who knew it to be altered when he became possessed thereof
- 254 Delivery of coin as genuine which when first possessed, the deliverer did not know to be altered

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- 255 Counterfeiting Government stamp
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- 259 Having possession of counterfeit Government stamp
- 260 Using as genuine a Government stamp known to be counterfeit
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- 233 Making or selling instrument for counterfeiting coin
- 234 Making or selling instrument for counterfeiting Queen's coin
- 235 Possession of instrument or material for the purpose of using the same for counterfeiting coin, if Queen's coin
- 236 Abetting in India the counterfeiting out of India of coin
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SECTIONS

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- 274 Adulteration of drugs
- 275 Sale of adulterated drugs
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- 278 Making atmosphere noxious to health
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- 281 Exhibition of false light, mark or buoy
- 282 Conveying person by water for hire in unsafe or overloaded vessel
- 283 Danger or obstruction in public way or line of navigation
- 284 Negligent conduct with respect to poisonous substance
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- 287 Negligent conduct with respect to machinery
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- 294 Obscene acts and songs
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- 305 Abetment of suicide of child or insane person
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- 315 Act done with intent to prevent child being born alive or to cause it to die after birth
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- 329 Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act
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- 332 Voluntarily causing hurt to deter public servant from his duty
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- 341 Punishment for wrongful restraint
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- 350 Criminal force
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- 352 Punishment for assault or criminal force otherwise than on grave provocation
- 353 Assault or criminal force to deter public servant from discharge of his duty
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- 362 Abduction
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- 370 Buying or disposing of any person as a slave
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- 372 Selling minor for purposes of prostitution, etc
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- 375 Rape
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- 379 Punishment for theft
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381 Theft by clerk or servant of property in possession of master

382 Theft after preparation made for causing death, hurt or restraint, in order to the committing of the theft

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383 Extortion

384 Punishment for extortion

385 Putting person in fear of injury in order to commit extortion

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387 Putting person in fear of death or of grievous hurt, in order to commit extortion

388 Extortion by threat of accusation of an offence punishable with death or transportation, etc

389 Putting person in fear of accusation of offence, in order to commit extortion

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390 Robbery

When theft is robbery

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391 Dacoity

392 Punishment for robbery

393 Attempt to commit robbery

394 Voluntarily causing hurt in committing robbery

395 Punishment for dacoity

396 Dacoity with murder

397 Robbery or dacoity, with attempt to cause death or grievous hurt

398 Attempt to commit robbery or dacoity when armed with deadly weapon

399 Making preparation to commit dacoity

400 Punishment for belonging to gang of dacoits

401 Punishment for belonging to gang of thieves

402 Assembling for purpose of committing dacoity

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403 Dishonest misappropriation of property

404 Dishonest misappropriation of property possessed by deceased person at the time of his death

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- 405 Criminal breach of trust
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- 407 Criminal breach of trust by carrier, etc
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- 410 Stolen property
- 411 Dishonestly receiving stolen property
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- 413 Habitually dealing in stolen property
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- 415 Cheating
- 416 Cheating by personation
- 417 Punishment for cheating
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- 419 Punishment for cheating by personation
- 420 Cheating and dishonestly inducing delivery of property

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- 421 Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors
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- 425 Mischief
- 426 Punishment for mischief
- 427 Mischief causing damage to the amount of fifty rupees
- 428 Mischief by killing or maiming animal of the value of ten rupees

429 Mischief

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429. Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.
430. Mischief by injury to works of irrigation or by wrongfully diverting water.
431. Mischief by injury to public road, bridge, river or channel.
432. Mischief by causing inundation or obstruction to public drainage attended with damage.
433. Mischief by destroying, moving or rendering less useful a light-house or sea-mark.
434. Mischief by destroying or moving, etc., a land-mark fixed by public authority.
435. Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.
436. Mischief by fire or explosive substance with intent to destroy house, etc.
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438. Punishment for the mischief described in section 437 committed by fire or explosive substance.
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440. Mischief committed after preparation made for causing death or hurt.

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441. Criminal trespass.
442. House-trespass.
443. Lurking house-trespass.
444. Lurking house-trespass by night.
445. House-breaking.
446. House-breaking by night.
447. Punishment for criminal trespass.
448. Punishment for house-trespass.
449. House-trespass in order to commit offence punishable with death.
450. House-trespass in order to commit offence punishable with transportation for life.
451. House-trespass, in order to commit offence punishable with imprisonment.
452. House-trespass after preparation for hurt, assault or wrongful restraint.
453. Punishment for lurking house-trespass or house-breaking.

454. Lurking

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- 454 Lurking house trespass or house breaking in order to commit offence punishable with imprisonment
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- 457 Lurking house trespass or house breaking by night in order to commit offence punishable with imprisonment
- 458 Lurking house trespass or house breaking by night after preparation for hurt, assault or wrongful restraint
- 459 Grievous hurt caused whilst committing lurking house trespass or house breaking
- 460 All persons jointly concerned in lurking house trespass or house breaking by night punishable where death or grievous hurt caused by one of them
- 461 Dishonestly breaking open receptacle containing property
- 462 Punishment for same offence when committed by person entrusted with custody

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 PROPERTY MARKS

- 463 Forgery
- 464 Making a false document
- 465 Punishment of forgery
- 466 Forgery of record of Court or of public register, etc
- 467 Forgery of valuable security will, etc
- 468 Forgery for purpose of cheating
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- 470 Forged document
- 471 Using as genuine a forged document
- 472 Making or possessing counterfeit seal, etc, with intent to commit forgery punishable under section 467
- 473 Making or possessing counterfeit seal, etc, with intent to commit forgery punishable otherwise
- 474 Having possession of document described in section 466 or 467, knowing it to be forged and intend ing to use it as genuine

475 Counterfeiting

SECTIONS.

- 475 Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material
- 476 Counterfeiting device or mark used for authenticating documents other than those described in section 467 or possessing counterfeit marked material
- 477 Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.
- 477A Falsification of accounts

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- 478 Trade mark
- 479 Property mark
- 480 Using a false trade mark
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- 482 Punishment for using a false trade mark or property mark
- 483 Counterfeiting a trade mark or property mark used by another
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- 486 Selling goods marked with a counterfeit trade mark or property mark
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- 488 Punishment for making use of any such false mark
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Of Currency Notes and Bank Notes

- 489A Counterfeiting currency-notes or bank notes
- 489B Using as genuine, forged or counterfeit currency notes or bank notes
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- 490 Breach of contract of service during voyage or journey
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OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

- 503 Criminal intimidation
504 Intentional insult with intent to provoke breach of the peace
505 Statements conducing to public mischief
506 Punishment for criminal intimidation
If threat be to cause death or grievous hurt, etc
507 Criminal intimidation by an anonymous communication
508 Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure
509 Word, gesture or act intended to insult the modesty of a woman
510 Misconduct in public by a drunken person
-

CHAPTER XXIII

OF ATTEMPTS TO COMMIT OFFENCES

- 511 Punishment for attempting to commit offences punishable with transportation or imprisonment

ACT No. XLV OF 1860.¹

[6th October, 1860]

The Indian Penal Code.

[As modified up to the 1st June, 1910]

CHAPTER I

INTRODUCTION

WHEREAS it is expedient to provide a general Preamble
Penal Code for British India, It is enacted
as follows —

1. This Act shall be called the Indian Penal Code, and shall take effect * * * * throughout the Title and ex-
tent of oper-
ation of the
Code
whole of the ³ territories which are or may become
vested

¹ The Indian Penal Code is superseded by Reg V of 1872 in the Sindh Frontier Districts—see s 11 Bom Code Vol I, in so far as that Regulation is inconsistent with it.

and
similarly, in the Chin Hills, as regards Hill tribes, by the Chin Hills
Regulation, 1896 (5 of 1896), Bur Code.

SECTIONS.

501. Printing or engraving matter known to be defamatory.
502. Sale of printed or engraved substance containing defamatory matter.
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CHAPTER XXII.

OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

503. Criminal intimidation.
504. Intentional insult with intent to provoke breach of the peace.
505. Statements conducing to public mischief.
506. Punishment for criminal intimidation.
If threat be to cause death or grievous hurt, etc.
507. Criminal intimidation by an anonymous communication.
508. Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure.
509. Word, gesture or act intended to insult the modesty of a woman.
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and
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Indian Penal Code. [ACT XLV
(Chapter I.—Introduction.)

vested in Her Majesty by the ¹ Statute 21 & 22 Victoria, Chapter 106, entitled "An Act for the better government of India" * * * * *

Punishment
of offences
committed
within the
said terri-
tories.

2. Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within the said territories * * * * *

Punishment
of offences
committed
beyond, but
which by law
may be tried
within, the
territories.

3. Any person liable, by any law passed by the Governor General of India in Council, to be tried for an offence committed beyond the limits of the said territories shall be dealt with according to the provisions of this Code for any act committed beyond the said territories in the same manner as if such act had been committed within the said territories

Extension of
Code to
extra terri-
torial
offences.

4. ⁴ The provisions of this Code apply also to any offence committed by—

(1) any Native Indian subject of Her Majesty in any place without and beyond British India;
(2) any

n. 504

² The words and figures "on or after the said first day of May, 1861,"
"1861)"
ode Amend
substituted
ich became
te of India,

(2) any other British subject within the territories of any Native Prince or Chief in India,

(3) any servant of the Queen, whether a British subject or not, within the territories of any Native Prince or Chief in India

Explanation—In this section the word “offence” includes every act committed outside British India which, if committed in British India, would be punishable under this Code

Illustrations

(a) A, a coolie, who is a Native Indian subject, commits a murder in Uganda. He can be tried and convicted of murder in any place in British India in which he may be found

(b) B, a European British subject, commits a murder in Kashmir. He can be tried and convicted of murder in any place in British India in which he may be found

(c) C, a foreigner who is in the service of the Punjab Government, commits a murder in Jhind. He can be tried and convicted of murder at any place in British India in which he may be found

(d) D, a British subject living in Indore, instigates E to commit a murder in Bombay. D is guilty of abetting murder

5. Nothing in this Act is intended to repeal, vary, suspend, or affect any of the provisions of the ¹ Statute 3 & 4 William IV Chapter 85, or of any Act of Parliament passed after that Statute in any wise affecting the East India Company, or the said territories, or the inhabitants thereof, or any of the provisions of any ² Act for punishing mutiny and desertion of officers and soldiers, in the service of Her

Certain laws
not to be
affected by
this Act

¹ Coll. Stats. Ind., Vol. I p. 170. May now be cited as the Government of India Act 1833—see the Short Titles Act 1896 (79 & 80 V. t., c. 14).

² See now the Army Act, 44 & 45 V. t., c. 58 (Coll. Stats., Ind., Vol. II), as continued and amended by subsequent Annual Army Acts.

Indian Penal Code. [ACT XLV
(Chapter I.—Introduction.)

vested in Her Majesty by the ¹ Statute 21 & 22 Victoria, Chapter 106, entitled "An Act for the better government of India" * * * * *

Punishment
of offences
committed
within the
said terri-
tories.

2. Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within the said territories * * * * *

Punishment
of offences
committed
beyond, but
which by law
may be tried
within, the
territories

3. Any person liable, by any law passed by the Governor General of India in Council, to be tried for an offence committed beyond the limits of the said territories shall be dealt with according to the provisions of this Code for any act committed beyond the said territories in the same manner as if such act had been committed within the said territories

Extension of
Code to
extra terri-
torial
offences

4. * The provisions of this Code apply also to any offence committed by—

(1) any Native Indian subject of Her Majesty in any place without and beyond British India,
(2) any

It has been declared under s 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874) to be in force in the following Scheduled Districts, namely,

p 504

It has been extended under s 5 of the same Act to the Lushai hills—see

as the Government of
Vict., c 14))
Island Singapore
ending Act 1891 (12

1891,
8 The words and figures "on or after the said first day of May, 1861,"
(12 of 1891)

Penal Code Amend
the text substituted
Bill which became
Gazette of India,

(2) any other British subject within the territories of any Native Prince or Chief in India,

(3) any servant of the Queen, whether a British subject or not, within the territories of any Native Prince or Chief in India

Explanation—In this section the word “ offence ” includes every act committed outside British India which, if committed in British India, would be punishable under this Code

Illustrations

(a) A, a coolie, who is a Native Indian subject, commits a murder in Uganda. He can be tried and convicted of murder in any place in British India in which he may be found

(b) B, a European British subject, commits a murder in Kashmir. He can be tried and convicted of murder in any place in British India in which he may be found

(c) C, a foreigner who is in the service of the Punjab Government, commits a murder in Jhind. He can be tried and convicted of murder at any place in British India in which he may be found

(d) D, a British subject living in Indore instigates E to commit a murder in Bombay. D is guilty of abetting murder

5. Nothing in this Act is intended to repeal, vary, suspend, or affect any of the provisions of the ^{Certain laws not to be affected by this Act.} Statute 3 & 4 William IV, Chapter 85, or of any Act of Parliament passed after that Statute in any wise affecting the East India Company, or the said territories, or the inhabitants thereof, or any of the provisions of any ² Act for punishing mutiny and desertion of officers and soldiers, in the service of

Her

Indian Penal Code. [ACT XLV
(Chapter II.—General Explanations.)

Her Majesty ¹* * * *, or of any special or local ² law

CHAPTER II.

GENERAL EXPLANATIONS.

Definitions in
the Code to
be under-
stood subject
to exceptions

6. Throughout this Code every definition of an offence, every penal provision and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the ³ chapter entitled "General Exceptions," though those exceptions are not repeated in such definition, penal provision or illustration.

Illustrations.

(a) The sections in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general ⁴ exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a Police-officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general ⁵ exception which provides that "nothing is an offence which is done by a person who is bound by law to do it."

Sense of
expression
once ex-
plained
Gender.

7. Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation

8. The pronoun "he" and its derivatives are used of any person, whether male or female

9. Unless

¹ The words "or of the East India Company, or of any Act for the Government of the East India Company, or of any Act for the Repealing

in the Indian
amendments

³ Chapter IV, *infra*.

⁴ In s 82, *infra*.

⁵ In s 76 *infra*

(Chapter II—General Explanations)

9. Unless the contrary appears from the context, Number words importing the singular number include the plural number, and words importing the plural number include the singular number

10. The word "man" denotes a male human "Man" being of any age the word "woman" denotes a "Woman" female human being of any age

11. The word "person" includes any Company "Person" or Association, or body of persons, whether incorporated or not

12. The word "public" includes any class of the "Public" public or any community

13. The word "Queen" denotes the Sovereign "Queen" for the time being of the United Kingdom of Great Britain and Ireland

14. The words "servant of the Queen" denote "Servant of the Queen" all officers or servants continued, appointed or employed in India by or under the authority of the said ¹ Statute 21 & 22 Victoria, Chapter 106, entitled "An Act for the better government of India," or by or under the authority of the Government of India or any Government

15. The words "British India" denote the territories which are or may become vested in Her Majesty by the said ¹ Statute 21 & 22 Victoria, Chapter 106, entitled "An Act for the better government of India" * * * * *

16. The words "Government of India" denote "Govern-ment of India" the Governor General of India in Council, or, during the absence of the Governor General of India from his Council, the President in Council, or the Governor General of India alone, as regards the powers which may be lawfully exercised by them or him respectively.

17. The

1860] see

Singapore
1891 (12)

(Chapter II.—General Explanations.)

"Government."

17. The word "Government" denotes the person or persons authorized by law to administer executive Government in any part of British India.

"Presidency."

18. The word "Presidency" denotes the territories subject to the Government of a Presidency.

"Judge."

19. The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person

who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or

who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations.

(a) A Collector exercising jurisdiction in a suit under ¹ Act X of 1859 is a Judge.

(b) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment with or without appeal, is a Judge.

(c) A member of a panchayat which has power, under ² Regulation VII, 1816, of the Madras Code, to try and determine suits, is a Judge.

(d) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.

"Court of Justice."

20. The words "Court of Justice" denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

Illustration.

A panchayat acting under Regulation VII, 1816, of the Madras Code, having power to try and determine suits, is a Court of Justice.

21. The

¹ See Ben. Code, Vol. V.

² Madras Regulation 7 of 1816 has been repealed by the Madras Civil Courts Act, 1873 (3 of 1873). See Mad. Code.

(Chapter II.—General Explanations)

21. The words ¹“public servant” denote a per- ^{“Public servant.”}
son falling under any of the descriptions herein-
after following, namely :—

First.—Every Covenanted servant of the Queen;

Second.—Every Commissioned Officer in the Military or Naval Forces of the Queen while serving under the Government of India or any Government;

Third —Every Judge;

Fourth —Every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court; and every person specially authorized by a Court of Justice to perform any of such duties;

Fifth

¹ Various other functionaries have been declared to be “public servants” for the purposes of the Indian Penal Code, by later Acts and Regulations

1882 (18 of 1882), s. 12 (3), Bur. Code; the Punjab Military Transport Animals Act, 1903 (Pun. Act 1 of 1903), s. 4 (2), Pun. and N. W. Code;

(Chapter II.—General Explanations.)

Fifth.—Every juryman, assessor or member of a panchayat assisting a Court of Justice or public servant;

Sixth —Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority;

Seventh —Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Eighth —Every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of Government, or to make any survey, assessment or contract on behalf of Government, or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of Government, or to make, authenticate or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of Government or remunerated by fees or commission for the performance of any public duty;

Tenth —Every officer whose duty it is, as such officer to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district

Illustration

A Municipal Commissioner is a public servant.

Explanation 1 —Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not

Explanation

(Chapter II—General Explanations)

Explanation 2—Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation

22. The words “moveable property” are intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth “Moveable property.”

23. “Wrongful gain” is gain by unlawful means of property to which the person gaining is not legally entitled “Wrongful gain.”

“Wrongful loss” is the loss by unlawful means of property to which the person losing it is legally entitled “Wrongful loss.”

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property. Gaining wrongfully.
Losing wrongfully.

24. Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing “dishonestly.” “Dishonestly.”

25. A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise “Fraudulently.”

26. A person is said to have “reason to believe” a thing if he has sufficient cause to believe that thing but not otherwise “Reason to believe.”

27. When property is in the possession of a person’s wife, clerk or servant, on account of that person, it is in that person’s possession within the meaning of this Code Property in possession of wife, clerk or servant.

Explanation

(Chapter II.—General Explanations.)

Fifth.—Every juryman, assessor or member of a panchayat assisting a Court of Justice or public servant;

Sixth.—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority;

Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Eighth.—Every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

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(Chapter II.—General Explanations.)

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Tenth.—Every officer whose duty it is, as such officer to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district.

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27. When property is in the possession of a person's wife, clerk or servant, on account of that person, it is in that person's possession within the meaning of this Code Property in possession of wife clerk or servant.

Indian Penal Code [ACT XLV
(Chapter II —General Explanations)

Explanation —A person employed temporarily or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this section

“Counterfeit”
28. A person is said to “counterfeit” who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised

Explanation 1 —It is not essential to counterfeiting that the imitation should be exact

Explanation 2 —When a person causes one thing to resemble another thing and the resemblance is such that a person might be deceived thereby it shall be presumed, until the contrary is proved that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised

“Document”
29 The word ‘document’ denotes any matter expressed or described upon any substance by means of letters figures or marks or by more than one of those means intended to be used or which may be used as evidence of that matter

Explanation 1 —It is immaterial by what means or upon what substance the letters figures or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice or not

Illustrations

A writing expressing the terms of a contract which may be used as evidence of the contract, is a document

A cheque upon a banker is a document

A power of attorney is a document

A map or plan which is intended to be used or which may be used as evidence is a document

A writing containing directions or instructions is a document

Explanation

¹ These Explanations were substituted for the original Explanations by the Metal Tokens Act 1893 (1 of 1893) & 9 Cent. Acts, Vol IV

(Chapter II—General Explanations)

Explanation 2—Whatever is expressed by means of letters, figures or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section, although the same may not be actually expressed

Illustration

A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words "pay to the holder" or words to that effect had been written over the signature

30. The words "valuable security" denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right

"Valuable security"

Illustration

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a "valuable security"

31. The words "a will" denote any testamentary document

32. In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions

Words referring to acts include illegal omissions

33. The word "act" denotes as well a series of acts as a single act. The word "omission" denotes as well a series of omissions as a single omission

34. When a criminal act is done by several persons, in furtherance of the common intention of all, each

Acts done by several persons in each

1 This section was substituted for the original section by the Indian Penal Code Amendment Act 1870 (Act of 1870) s. 1 (Act 1870, s. 1)

furtherance of common intention.

When such an act is criminal by reason of its being done with a criminal knowledge or intention

Effect caused partly by act and partly by omission

each of such persons is liable for that act in the same manner as if it were done by him alone.

35. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention

36. Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence

Illustration.

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z A has committed murder

Co operation by doing one of several acts constituting an offence

37. When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence

Illustrations

(a) A and B agree to murder Z by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder, and as each of them does an act by which the death is caused, they are both guilty of the offence though their acts are separate.

(b) A and B are joint jailors, and, as such, have the charge of Z, a prisoner, alternately for six hours at a time A jointly co-operate in each during the time food supplied to them for that purpose Z dies of hunger. Both A and B are guilty of the murder of Z.

(c) A,

(Chapter II—General Explanations)

(c) A, a jailor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food, in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder, but, as A did not co-operate with B, A is guilty only of an attempt to commit murder.

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Persons concerned in criminal act may be guilty of different offences.

Illustration

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B having ill will towards Z and intending to kill him, and not having been subject to the provocation assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

39. A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

"voluntarily"

Illustration

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating robbery, and thus causes the death of a person. Here, A may not have intended to cause death, and may even be sorry that death has been caused by his act; yet, if he knew that he was likely to cause death, he has caused death voluntarily.

40. Except in the chapter and sections mentioned in clauses 2 and 3 of this section, the word "offence" denotes a thing made punishable by this Code.

In

¹ This section was substituted for the original s. 40 by the Indian Penal Code Amendment Act 1870 (27 of 1870), s. 2, Genl. Acts, Vol. II.

In Chapter IV and in the following sections, namely, sections 164, 165, 166, 167, 171, 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445, the word "offence" denotes a thing punishable under this Code, or under any special or local law as hereinafter² defined

And in sections 141, 176, 177, 201, 202, 212, 216 and 441 the word "offence" has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine

"Special law" 41. A "special law" is a law applicable to a particular subject

"Local law" 42. A "local law" is a law applicable only to a particular part of British India

"Illegal" 43. The word "illegal" is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action, and a person is said to be "legally bound to do" whatever it is illegal in him to omit

"Injury." 44. The word "injury" denotes any harm whatever illegally caused to any person, in body, mind, reputation or property

"Life" 45. The word "life" denotes the life of a human being, unless the contrary appears from the context

"Death" 46. The word "death" denotes the death of a human being, unless the contrary appears from the context

"Animal" 47. The word "animal" denotes any living creature, other than a human being

48. The

¹ 1 The figures 61, 62, 66 and 71 were inserted by the Indian Penal Code Amendment Act 1882 (3 of 1882) s 1 and the figures 67 by the Indian Criminal Law Amendment Act 1886 (10 of 1886) s 21 (4), *Geol Acts Vol III*

² 1a ss 41, 42

48. The word "vessel" denotes anything made ^{"Vessel"} for the conveyance by water of human beings or of property

49. Wherever the word "year" or the word ^{"Year"} "month" is used, it is to be understood that the ^{"Month"} year or the month is to be reckoned according to the British calendar

50. The word "section" denotes one of those ^{"Section"} portions of a chapter of this Code which are distinguished by prefixed numeral figures

51. The word "oath" includes a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant or to be used for the purpose of proof, whether in a Court of Justice or not

52. Nothing is said to be done or believed in good ^{"Good faith"} faith which is done or believed without due care and attention

CHAPTER III

OF PUNISHMENTS

53. The punishments to which offenders are ^{"Punishments"} liable under the provisions of this Code are,—

First,—Death,

Secondly,—Transportation;

Thirdly,—Penal servitude,

Fourthly,—Imprisonment, which is of two descriptions, namely .—

(1) Rigorous, that is, with hard labour

(2) Simple

Fifthly,—Forfeiture of property,

Sixthly,—Fine.

(Chapter III—Of Punishments)

Commuta-
tion of sen-
tence of
death.

54. In every case in which sentence of death shall have been passed, the Government of India or the Government of the place within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for any other punishment provided by this Code

Commuta-
tion of sen-
tence of
transporta-
tion for life

55. In every case in which sentence of transportation for life shall have been passed, the Government of India or the Government of the place within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years

Sentence of
Europeans
and Ameri-
cans to penal
servitude

56. Whenever any person being an European or American is convicted of an offence punishable under this Code with transportation, the Court shall sentence the offender to penal servitude instead of transportation according to the provisions of 'Act XXIV of 1855

Provision as to
sentence for
term exceed

²[Provided that, where an European or American offender would, but for such Act be liable to be transported for a term but not for life, he shall be or ordered to be kept in penal servitude for such term exceeding six years as to the Court seems fit, but not for life]

Provisions of
term of
punishment

57. In calculating fractions of terms of punishment, transportation for life shall be reckoned as equivalent to transportation for twenty years

Offenders
sentenced to
transporta-
tion shall
be dealt with
until the
term

58. In every case in which a sentence of transportation is passed the offender, until he is transported shall be dealt with in the same manner as if sentenced to rigorous imprisonment and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment

59. In

¹ The Penal Servitude Act, 1855 Genl Act, Vol I

² This provision is added by the Indian Penal Code Amendment Act 1870 (27 of 1870) s 3 of the Acts, Vol II

59 In every case in which an offender is punishable with imprisonment for a term of seven years or upwards, it shall be competent to the Court which sentences such offender, instead of awarding sentence of imprisonment, to sentence the offender to transportation for a term not less than seven years, and not exceeding the term for which by this Code such offender is liable to imprisonment

Transportation instead of imprisonment

60 In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple

Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple

61. In every case in which a person is convicted of an offence for which he is liable to forfeiture of all his property, the offender shall be incapable of acquiring any property except for the benefit of Government until he shall have undergone the punishment awarded, or the punishment to which it shall have been commuted, or until he shall have been pardoned

Sentence of forfeiture of property

Illustration

A, being convicted of waging war against the Government of India, is liable to forfeiture of all his property. After the sentence, and whilst the same is in force, A's father dies, leaving an estate which, but for the forfeiture, would become the property of A. The estate becomes the property of Government

62. Whenever

¹ As to the application of ss. 60 and 63 to 74 to sentences passed in a Punjab Frontier District in the North West Frontier Province or in Baluchistan, see the Punjab Frontier Crimes Regulation 1901 (3 of 1901) ss 13 (2) 61, Punjab W. Code

As to the application of ss 60 63, 64 and 65 and 68 to 74 inclusive to the Sindh Frontier see s. 28 (1) of the Sindh Frontier Regulation, 1892 (3 of 1892), Bom Code Vol I

Forfeiture of property in respect of offenders punishable with death transportation or imprisonment

62 Whenever any person is convicted of an offence punishable with death, the Court may adjudge that all his property, moveable and immovable, shall be forfeited to Government, and, whenever any person shall be convicted of any offence for which he shall be transported or sentenced to imprisonment for a term of seven years or upwards, the Court may adjudge that the rents and profits of all his moveable and immovable estate during the period of his transportation or imprisonment, shall be forfeited to Government subject to such provision for his family and dependants as the Government may think fit to allow during such period

Amount of fine

63. Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive

Sentence of imprisonment for non payment of fine

64 In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment,

and in every case of an offence punishable ³[with imprisonment or fine, or] with fine only, in which the offender is sentenced to a fine,

it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to

which

¹ See the first footnote on preceding page

² The first two clauses of s 64 are substituted for the words "in every case" in the original Act

(Chapter III—Of Punishments)

which he may have been sentenced or to which he may be liable under a commutation of a sentence

'65. The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed one fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine

Limit to imprisonment for non payment of fine when imprisonment and fine awardable

'66. The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence

Description of imprisonment for non payment of fine

'67. If the offence be punishable with fine only, [the imprisonment which the Court imposes in default of payment of the fine shall be simple, and] the term for which the Court directs the offender to be imprisoned, in default of payment of fine shall not exceed the following scale, that is to say, [for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case]

Imprisonment for non payment of fine, when offence punishable with fine only

'68. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law

Imprisonment to terminate on payment of fine

69. If

¹ See first footnote on page 43, *supra*

" for any term not exceeding four months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding eight months when the amount shall not exceed one hundred rupees, and for any term not exceeding twelve months in any other case "

See Regulation 1 of 1895, ss. 1 (3) and 3, Bur. Code.

This substitution is also made in the case of the hill tribes to which the Chin Hills Regulation, 1896, is applied (see Reg. 5 of 1895, s. 3, Bur. Code).

Indian Penal Code. [ACT XLV
(Chapter III.—Of Punishments.)

a time not exceeding two months if the term of imprisonment shall exceed six months and '[shall not exceed one] year :

a time not exceeding three months if the term of imprisonment shall exceed one year.

Limit of
solitary
confinement

⁷⁴. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods, and, when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods

Enhanced
punishment
for certain
offences
under
Chapter XII
or Chapter
XVII after
previous
conviction

⁷⁵. Whoever, having been convicted,—

(a) by a Court in British India, of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, or

(b) by a Court or tribunal in the territories of any Native Prince or State in India acting under the general or special authority of the Governor General in Council or of any Local Government, of an offence

¹ These words were substituted for the words "be less than a" by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s 5, Genl Acts, Vol III

² See first footnote on page 41, *supra*

³ s 75 was substituted by the Indian Penal Code Amendment Act, 1910 (3 of 1910). The original section as amended by the Indian Criminal Law Amendment Act 1886 (10 of 1886) s 22 ran as follows :—

Whoever having been convicted of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, shall be guilty of any offence punishable under either of those Chapters with imprisonment of either description for a term of three years or upwards, shall be subject for every such subsequent offence to transportation for life [or to imprisonment of either description for a term which may extend to ten years]

(Chapter IV.—General Exceptions.)

offence which would, if committed in British India, have been punishable under those Chapters of this Code with like imprisonment for the like term,

shall be guilty of any offence punishable under either of those Chapters with like imprisonment for the like term, shall be subject for every such subsequent offence to transportation for life, or to imprisonment of either description for a term which may extend to ten years ¹

2 CHAPTER IV.

GENERAL EXCEPTIONS.

76. Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith he believes himself to be, bound by law to do it

Act done by a person bound, or by mistake of fact believing himself bound, by law

Illustrations

(a) A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence

(b) A, an officer of a Court of Justice, being ordered by that Court to arrest Y. and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence

77. Nothing

¹ In its application to all trials to which the Code in Hill Tribes Regulation, 1895 (1 of 1895) is applied see ss. 1 (3) and 2 of that Regulation. But Code, the Code is to be read as if the following additional section were inserted:—

“75A. Notwithstanding anything in this Code or in any other enactment for the time being in force, a person convicted of any offence punishable under this Code or under any other enactment shall be punishable with fine or imprisonment or in addition to any other punishment to which he may be liable.”

In the Chin Hills the Code is to be read as if a section similar to the preceding save a few verbal differences, and similarly numbered were inserted—see the Chin Hills Regulation, 1896 (5 of 1896) Bur. Code

² Ch. IV applies to offences punishable under ss. 121A, 121B, 225A, 225B, 294A and 304A—see the Indian Penal Code Amendment Act 1870 (27 of 1870), s. 13 as amended by the repealing and Amendment Act 1891 (12 of 1891), Genl. Acts, Vol. IV

Indian Penal Code. [ACT XLV
(Chapter IV.—General Exceptions.)

Act of Judge
when acting
judicially.

77. Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

Act done
pursuant to
the judgment
or order of
Court.

78. Nothing which is done in pursuance of, or which is warranted by the judgment or order of, a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

Act done by
a person
justified, or
by mistake
of fact be-
lieving him-
self justified,
by law.

79. Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law in doing it

Illustration.

A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment, exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence

Accident in
doing a law-
ful act.

80. Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

Illustration.

A is at work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

81. Nothing

(Chapter IV—General Exceptions)

81. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property

Act likely to cause harm but done without criminal intent and to prevent other harm.

Explanation—It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm

Illustrations

(a) A, the captain of a steam vessel suddenly and without any fault or negligence on his part finds himself in such a position that before he can stop his vessel he must inevitably run down a boat B with twenty or thirty passengers on board unless he changes the course of his vessel, and that, by changing his course he must incur risk of running down a boat C with only two passengers on board, which he may possibly clear. Here if A alters his course without any intention to run down the boat C and in good faith for the purpose of avoiding the danger to the passengers in the boat B he is not guilty of an offence though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down C

(b) A in a great fire pulls down houses in order to prevent the conflagration from spreading. He does this with the intention in good faith of saving human life or property. Here if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence

82 Nothing is an offence which is done by a child under seven years of age

Act of a child under seven years of age

83 Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion

Act of a child above seven and under twelve of immature understanding

Nothing

(Chapter IV.—General Exceptions.)

Act of Judge
when acting
judicially.

77. Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

Act done
pursuant to
the judgment
or order of
Court.

78. Nothing which is done in pursuance of, or which is warranted by the judgment or order of, a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

Act done by
a person
justified, or
by mistake
of fact be-
lieving him-
self justified,
by law.

79. Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law in doing it.

Illustration.

A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment, exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

Accident in
doing a law-
ful act.

80. Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

Illustration.

A is at a work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence

81. Nothing

(Chapter IV — General Exceptions)

81. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause any criminal injury to any person, if it is done in good faith for the purpose of preventing or removing harm to person or property.

Explanation — It is a question of fact in such a case whether the harm to be prevented or removed was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustrations

(a) A the captain of a steam vessel suddenly and without any fault or negligence on his part finds himself in such a position that before he can stop his vessel he must inevitably run down a boat B with twenty or thirty passengers on board unless he changes the course of his vessel and that by changing his course he must incur risk of running down a boat C with only two passengers on board, which he may possibly clear. Here if A alters his course without any intention to run down the boat C and in good faith for the purpose of avoiding the danger to the passengers in the boat B he is not guilty of an offence though he may run down the boat C by doing an act which he knew was likely to cause that effect if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down C.

(b) A in a great fire pulls down houses in order to prevent the conflagration from spreading. He does this with the intention in good faith of saving human life or property. Here if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act A is not guilty of the offence.

82 Nothing is an offence which is done by a child under seven years of age.

83 Nothing is an offence which is done by a child above seven years of age and under twelve who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

84 Nothing

(Chapter IV.—General Exceptions.)

Act of a person of unsound mind.

84. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

Act of a person incapable of judgment by reason of intoxication caused against his will.

85. Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law : provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

Offence requiring a particular intent or knowledge committed by one who is intoxicated.

86. In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

Act not intended and not known to be likely to cause death or grievous hurt done by consent.

87. Nothing which is not intended to cause death, or grievous hurt, and which is not known by the doer to be likely to cause death, or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person, above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration.

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which, in the course of such fencing, may be caused without foul play; and if A, while playing fairly, hurts Z, A commits no offence.

Act not intended to cause death done by con-

88. Nothing, which is not intended to cause death, is an offence by reason of any harm which it may

(Chapter IV—General Exceptions)

may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm

sent in good
faith for
person's
benefit

Illustration

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under a painful complaint but not intending to cause Z's death, and intending in good faith Z's benefit, performs that operation on Z, with Z's consent. A has committed no offence.

89 Nothing which is done in good faith for the benefit of a person under twelve years of age or of unsound mind by or by consent either express or implied of the guardian or other person having lawful charge of that person is an offence by reason of any harm which it may cause or be intended by the doer to cause or be known by the doer to be likely to cause to that person. Provided—

Act done in
good faith
for benefit of
child or
insane
person by or
by consent of
guardian

First That this exception shall not extend to the intentional causing of death or to the attempting to cause death,

Proviso

Secondly—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity,

Thirdly—That this exception shall not extend to the voluntary causing of grievous hurt or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity,

Fourthly—That this exception shall not extend to the abetment of any offence to the committing of which offence it would not extend.

Illustration

A, in good faith, for his child's benefit without his child's consent has his child cut for the stone by a surgeon

knowing

(Chapter IV.—General Exceptions.)

knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child.

Consent known to be given under fear or misconception.

90. A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or

Consent of insane person.

if the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or,

Consent of child.

unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

Exclusion of acts which are offences independently of harm caused.

91. The exceptions in sections 87 and 88 and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

Illustration.

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore, it is not an offence "by reason of such harm"; and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

Act done in good faith for benefit of a person without consent.

92. Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from

(Chapter IV—General Exceptions)

from whom it is possible to obtain consent in time for the thing to be done with benefit Provided—

First—That this exception shall not extend to the intentional causing of death or the attempting to cause death, PRO 1308

Secondly—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt or the curing of any grievous disease or infirmity,

Thirdly—That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt,

Fourthly—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend

Illustrations

(a) Z is thrown from his horse, and is insensible A, a surgeon, finds that Z requires to be trepanned A, not intending Z's death, but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself A has committed no offence

(b) Z is carried off by a tiger A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z and in good faith intending Z's benefit A's ball gives Z a mortal wound A has committed no offence

(c) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed There is not time to apply to the child's guardian A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit A has committed no offence

(d) A is in a house which is on fire, with Z, a child People below hold out a blanket A drops the child from the housetop, knowing it to be likely that the fall may kill the child but not intending to kill the child, and intending in good faith, the child's benefit Here, even if the child is killed by the fall, A has committed no offence

Explanation

[ACT XLV]

Indian Penal Code
(Chapter IV —General Exceptions)

Explanation —Mere pecuniary benefit is not benefit within the meaning of sections 88, 89 and 92

Communica-
tion made in
good faith

93 No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person

Illustration

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death

Act to which
a person is
compelled by
threats

94. Except murder, and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence. Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint

Explanation 1 —A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do any thing that is an offence by law

Explanation 2 —A person seized by a gang of dacoits, and forced by threat of instant death, to do a thing which is an offence by law, for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception

Act causing
slight harm

95. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm

Of the Right of Private Defence

96 Nothing is an offence which is done in the exercise of the right of private defence

Things done
in private
defence

97 Every person has a right subject to the restrictions contained in section 99, to defend—

Right of private
defence
of the body

First—His own body, and the body of any other person, against any offence affecting the human body,

and of property

Secondly—The property, whether moveable or immoveable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass

98 When an act, which would otherwise be a certain offence is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence

Right of private
defence
against the
act of a person
of unsound mind
etc

Illustrations

(a) Z, under the influence of madness attempts to kill A, Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane

(b) A enters by force into the house of Z, and attacks A. Here Z has the right of private defence against A, though A is not acting under that misconception

99 There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office though that act may not be strictly justifiable by law

Acts against
which there
is no right of
private
defence

There

Indian Penal Code. [ACT XLV
(Chapter IV.—General Exceptions.)

Explanation.—Mere pecuniary benefit is not benefit within the meaning of sections 88, 89 and 92.

Communica-
tion made in
good faith.

93. No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person

Illustration.

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

Act to which
a person is
compelled by
threats.

94. Except murder, and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence: Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation 1.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2.—A person seized by a gang of dacoits, and forced by threat of instant death, to do a thing which is an offence by law; for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

Act causing
slight harm

95. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

Of the Right of Private Defence

96. Nothing is an offence which is done in the exercise of the right of private defence

Things done
in private
defence

97. Every person has a right, subject to the restrictions contained in section 99, to defend—

Right of pri-
vate defence
of the body
and of pro-
perty

First.—His own body, and the body of any other person, against any offence affecting the human body,

Secondly—The property, whether moveable or immoveable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass

98. When an act, which would otherwise be a certain offence is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence

Right of pri-
vate defence
against the
act of a per-
son of un-
sound mind
etc

Illustrations

(a) Z, under the influence of madness, attempts to kill A, Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane

(b) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception

99. There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law

Acts against
which there
is no right of
private
defence

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office, though that direction may not be strictly justifiable by law.

There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities

Extent to which the right may be exercised

The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence

Explanation 1—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows, or has reason to believe, that the person doing the act is such public servant

Explanation 2—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or, if he has authority in writing, unless he produces such authority, if demanded

When the right of private defence of the body extends to causing death

100. The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely —

First—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault,

Secondly—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault,

Thirdly

(Chapter IV—General Exceptions)

Thirdly.—An assault with the intention of committing rape,

Fourthly.—An assault with the intention of gratifying unnatural lust,

Fifthly.—An assault with the intention of kidnapping or abducting,

Sixthly.—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release

101. If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99, to the voluntary causing to the assailant of any harm other than death

102. The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an assault, or an attempt to commit the offence though the offence may not have been committed, and it continues as long as such apprehension of danger to the body continues

103. The right of private defence of property extends, under the restrictions mentioned in section 99, to the voluntary causing of death or of any other harm to the wrong doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated namely —

First—Robbery,

Secondly—House breaking by night,

Thirdly—Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or as a place for the custody of property,

Fourthly

(Chapter IV —General Exceptions)

Fourthly—Theft, mischief or house trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised

When such right extends to causing any harm other than death

104. If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrong doer of any harm other than death

Commencement and continuance of the right of private defence of property

105. The right of private defence of property commences when a reasonable apprehension of danger to the property commences

The right of private defence of property against theft continues till the offender has effected his retreat with the property or either the assistance of the public authorities is obtained, or the property has been recovered

The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint or as long as the fear of instant death or of instant hurt or of instant personal restraint continues

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief

The right of private defence of property against house breaking by night continues as long as the house trespass which has been begun by such house breaking continues

106. If

(Chapter IV—General Exceptions—Chapter V—
Of Abetment)

106. If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk

Right of private defence against deadly assault when there is risk of harm to innocent person

Illustration

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.

CHAPTER V¹

OF ABETMENT

107. A person abets the doing of a thing, who—

Abetment of a thing

First—Instigates any person to do that thing, or,

Secondly—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing, or,

Thirdly—Intentionally aids, by any act or illegal omission, the doing of that thing

Explanation 1—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing

Illustration

¹ Chapter V applies to offences punishable under ss 121A, 124A, 225A, 225B, 254A and 304A—see the Indian Penal Code Amendment Act 1870 (27 of 1870) s 13 as amended by the Repealing and Amending Act 1891 (13 of 1891) Genl Acts Vol IV

Indian Penal Code [ACT XLV
(Chapter V.—Of Abetment)

Illustration

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Abettor

108. A person abets an offence who abets either the commission of an offence or the commission of an act which would be an offence if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1—The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation 2—To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations

(a) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(b) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations

(a) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person

(Chapter V—Of Abetment)

a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b) A, with the intention of murdering Z instigates B a child under seven years of age to do an act which causes Z's death. B in consequence of the abetment does the act in the absence of A and thereby causes Z's death. Here though B was not capable by law of committing an offence A is liable to be punished in the same manner as if B had been capable by law of committing an offence and had committed murder and he is therefore subject to the punishment of death.

(c) A instigates B to set fire to a dwelling house. B, in consequence of the unsoundness of his mind being incapable of knowing the nature of the act or that he is doing what is wrong or contrary to law sets fire to the house in consequence. A has committed no offence but B is liable to the punishment provided for the offence of setting fire to a dwelling house.

(d) A instigates B to steal a theft to be committed by B belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession in good faith believing it to be A's property. B acting under this misconception does not steal dishonestly and therefore does not commit theft. But A is guilty of abetting theft and is liable to the same punishment as if B had committed theft.

Explanation 4—The abetment of an offence being an offence the abetment of such an abetment is also an offence.

Illustration

A instigates B to commit an offence. B commits the offence.

A is liable to the punishment for murder and as A instigated B to commit the offence A is also liable to the same punishment.

Explanation 5—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engage in the conspiracy.

(Chapter V.—Of Abetment.)

conspiracy in pursuance of which the offence is committed.

Illustration.

A consents with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section, and is liable to the punishment for murder.

Abetment in
British India
of offences
outside it

108A. A person abets an offence within the meaning of this Code who, in British India, abets the commission of any act without and beyond British India which would constitute an offence if committed in British India

Illustration.

A, in British India, instigates B, a foreigner in Goa, to commit a murder in Goa. A is guilty of abetting murder.

Punishment
of abetment
if the act
abetted is
committed in
consequence
and where
no express
provision is
made for its
punishment

109. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations.

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in section 161

(b) A

(Chapter V—Of Abetment)

(b) A instigates B to give false evidence B, in consequence of the instigation, commits that offence A is guilty of abetting that offence, and is liable to the same punishment as B

(c) A and B conspire to poison Z A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death Here B is guilty of murder A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder

110 Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other

111. When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it

Provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment

Illustrations

(a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z Here, if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Y

(b) A instigates B to burn Z's house B sets fire to the house and at the same time commits theft of property there A, though guilty of abetting the burning of the house is not guilty of abetting the theft, for the theft was a distinct act and not a probable consequence of the burning

(c) A

(Chapter V—Of Abetment)

(c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder

Abettor
when
liable to cu-
mulative
punishment
for act abet-
ted and for
act done

112. If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences

Illustration

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and, if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress, A will also be liable to punishment for each of the offences.

Liability of
abettor for
an effect
caused by
the act
abetted
different
from that
intended by
the abettor

113. When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment, causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

Illustration

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies. A is liable to be punished for murder.

Abettor
present when
offence is
committed

114. Whenever any person, who if absent would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable

(Chapter V.—Of Abetment.)

in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

115. Whoever abets the commission of an offence punishable with death or transportation for life, shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

Abetment of offence punishable with death or transportation for life—if offence not committed;

and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

if act causing harm be done in consequence.

Illustration.

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or transportation for life. Therefore A is liable to imprisonment for a term which may extend to seven years and also to a fine; and, if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

116. Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abatement, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence; or with such fine as is provided for that offence, or with both;

Abetment of offence punishable with imprisonment—if offence be not committed;

and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence,

if abettor or person abetted be a public servant whose duty it is to prevent offence.

or

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(Chapter V —Of Abetment)

(c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

Abettor
when
liable to cu-
mulative
punishment
for act abet-
ted and for
act done

112. If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Illustration

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences, and, if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress, A will also be liable to punishment for each of the offences.

Liability of
abettor for
an effect
caused by
the act
abetted
different
from that
intended by
the abettor

113. When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment, causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

Illustration

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

Abettor
present when
offence is
committed

114. Whenever any person, who if absent would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in

(Chapter V.—Of Abetment)

in consequence of the abetment is committed, he shall be deemed to have committed such act or offence

115. Whoever abets the commission of an offence punishable with death or transportation for life, shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine,

Abetment of offence punishable with death or transportation for life—if offence not committed,

and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine

if act causing harm be done in consequence

Illustration

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or transportation for life. Therefore A is liable to imprisonment for a term which may extend to seven years and also to a fine, and, if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine,

116. Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence, or with such fine as is provided for that offence, or with both,

Abetment of offence punishable with imprisonment—if offence be not committed,

and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one half of the longest term provided for that offence,

if abettor or person abetted be a public servant whose duty it is to prevent offence.

or

65

or with such fine as is provided for the offence, or with both.

Illustrations.

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this section.

(b) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.

(c) A, a police-officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

(d) B abets the commission of a robbery by A, a police-officer, whose duty it is to prevent that offence. Here, though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

Abetting
commission
of offence by
the public,
or by more
than ten
persons

117. Whoever abets the commission of an offence by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration.

A affixes in a public place a placard instigating a sect consisting of more than ten members to meet at a certain time and place, for the purpose of attacking the members of an adverse sect, while engaged in a procession. A has committed the offence defined in this section.

Concealing
design to
commit
offence
punishable
with death
or trans-
portation for
life—

118. Whoever intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or transportation for life,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence or makes any representation which he knows to be false respecting such design,

shall,

(Chapter V — Of Abetment)

shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years, or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years and in either case shall also be liable to fine

Illustration

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this section

119. Whoever, being a public servant intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence which it is his duty as such public servant to prevent,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

shall, if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both;

or if the offence be punishable with death or transportation for life, with imprisonment of either description for a term which may extend to ten years;

or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one fourth part of the longest term of such imprisonment, or with such fine as is provided for the offence or with both

Illustration

(Chapter V.—Of Abetment, Chapter VI.—Of Offences against the State)

Illustration.

A, an officer of police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section.

120. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth, of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both

CHAPTER VI

OF OFFENCES AGAINST THE STATE

121. Whoever wages war against the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or transportation for life, and shall forfeit all his property.

Illustrations.

(a) A joins an insurrection against the Queen. A has committed the offence defined in this section.

(b) A in India abets an insurrection against the Queen's Government of Ceylon by
A is guilty of abetting the

(Chapter VI—Of Offences against the State)

121A. Whoever within or without British India conspires to commit any of the offences punishable by section 121, or to deprive the Queen of the sovereignty of British India or of any part thereof, or conspires to overawe, by means of criminal force or the show of criminal force, the Government of India or any Local Government, shall be punished with transportation for life or any shorter term, or with imprisonment of either description which may extend to ten years

Conspiracy to commit offences punishable by section 121

Explanation—To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof

122. Whoever collects men, arms or ammunition or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the Queen, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, and shall forfeit all his property

Collecting arms etc., with intention of waging war against the Queen.

123. Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the Queen, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Concealing with intent to facilitate design to wage war

124. Whoever, with the intention of inducing or compelling the Governor General of India, or the Governor of any Presidency, or a Lieutenant Governor, or a Member of the Council of the Governor General of India, or of the Council of any Presidency, to exercise or refrain from exercising in any manner any of the lawful powers of such Governor

Assaulting Governor General, Governor etc., with intent to compel or restrain the exercise of any lawful power

1 S. 121A was inserted by the Indian Penal Code Amendment Act, 1870 (27 of 1870) s. 4.
Chs. IV V and XXIII of this Code apply to offences punishable under s. 121A—see s. 13

Indian Penal Code. [ACT XLV
(Chapter VI—Of Offences against the State)]

Governor General, Governor, Lieutenant Governor or Member of Council,

assaults or wrongfully restrains, or attempts wrongfully to restrain, or overawes, by means of criminal force or the show of criminal force, or attempts so to overawe, such Governor General, Governor, Lieutenant-Governor or Member of Council,

shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine

Sedition. '124A. Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, Her Majesty or the Government established by law in British India, shall be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine

Explanation 1—The expression 'disaffection' includes disloyalty and all feelings of enmity

Explanation 2—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section

Explanation 3—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section

125. Whoever

" of 1870 s 5 was
nt Act 1898 (4 of
For Select Com
or Act 4 of 1898,

Chs IV and V of this Code apply to offences punishable under s 124A—
see the Indian Penal Code Amendment Act 1870 (27 of 1870) s 13,
Genl Acts Vol II

(Chapter VI—Of Offences against the State)

125. Whoever wages war against the Government of any Asiatic Power in alliance or at peace with the Queen or attempts to wage such war, or abets the waging of such war, shall be punished with transportation for life, to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine

Waging war
against any
Asiatic
Power in
alliance with
the Queen

126. Whoever commits depredation, or makes preparations to commit depredation, on the territories of any Power in alliance or at peace with the Queen, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or acquired by such depredation

Committing
depredation
on territories
of Power
at peace with
the Queen

127. Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in sections 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received

Receiving
property
taken by war
or depreda-
tion men-
tioned in
sections 125
and 126.

128. Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Public
servant
voluntarily
allowing
prisoner of
State or war
to escape

129. Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine

Public
servant
negligently
suffering
such prisoner
to escape

(Chapter VI—Of Offences against the State.
Chapter VII—Of Offences relating to the
Army and Navy)

Aiding escape
of rescuing
or harbour
ing such
prisoner

130. Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the recapture of such prisoner, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Explanation.—A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in British India, is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large

CHAPTER VII

OF OFFENCES RELATING TO THE ARMY AND NAVY ¹

Abetting
mutiny or
attempting
to seduce a
soldier or
sailor from
his duty

131. Whoever abets the committing of mutiny by an officer, soldier or sailor, in the Army or Navy of the Queen, or attempts to seduce any such officer, soldier or sailor from his allegiance or his duty, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Explanation—In this section the words “officer” and “soldier” include any person subject to the Articles of War, for the better government of Her Majesty’s Army, or to the Articles of War contained in ⁴ Act No V of 1869

132. Whoever

¹ Also the Indian Marine Service.—see s 138A *infra*

² This Explanation was added by the Indian Penal Code Amendment Act, 1870 (27 of 1870) s 6 Genl Acts Vol II

³ See now the Army Act (44 & 45 Vict c 58) Cell Stats Ind., Vol II as continued and amended by subsequent annual Army Acts

⁴ For the Indian Articles of War 1869 (Act 5 of 1869) see Genl Acts Vol II

(Chapter VII.—Of Offences relating to the Army^a and Navy.)

132. Whoever abets the committing of mutiny by an officer, soldier or sailor, in the Army or Navy of the Queen, shall, if mutiny be committed in consequence of that abetment, be punished with death or with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of mutiny, if mutiny is committed in consequence thereof.

133. Whoever abets an assault by an officer, soldier or sailor, in the Army or Navy of the Queen, on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Abetment of assault by soldier or sailor on his superior officer, when in execution of his office.

134. Whoever abets an assault by an officer, soldier or sailor, in the Army or Navy of the Queen, on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Abetment of such assault if the assault is committed.

135. Whoever abets the desertion of any officer, soldier or sailor, in the Army or Navy of the Queen, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Abetment of desertion of soldier or sailor.

136. Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier or sailor, in the Army or Navy of the Queen, has deserted, harbours such officer, soldier or sailor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring deserter.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

137. The master or person in charge of a merchant vessel, on board of which any deserter from

Deserter concealed on board

the

(Chapter VI.—Of Offences against the State.
Chapter VII.—Of Offences relating to the
Army and Navy.)

Aiding escape
of, rescuing
or harbour-
ing, such
prisoner.

130. Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the recapture of such prisoner, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in British India, is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

CHAPTER VII.

OF OFFENCES RELATING TO THE ARMY AND NAVY.¹

Abetting
mutiny, or
attempting
to seduce a
soldier or
sailor from
his duty.

131. Whoever abets the committing of mutiny by an officer, soldier or sailor, in the Army or Navy of the Queen, or attempts to seduce any such officer, soldier or sailor from his allegiance or his duty, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—In this section the words “officer” and “soldier” include any person subject to the ³ Articles of War, for the better government of Her Majesty’s Army, or to the Articles of War contained in ⁴ Act No. V of 1869.

132. Whoever

(Chapter VII—Of Offences relating to the Army^a
and Navy)

132. Whoever abets the committing of mutiny by an officer, soldier or sailor, in the Army or Navy of the Queen, shall, if mutiny be committed in consequence of that abetment be punished with death or with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Abetment of mutiny if mutiny is committed in consequence thereof

133. Whoever abets an assault by an officer, soldier or sailor, in the Army or Navy of the Queen, on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine

Abetment of assault by soldier or sailor on his superior officer when in execution of his office

134. Whoever abets an assault by an officer, soldier or sailor, in the Army or Navy of the Queen, on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

Abetment of such assault if the assault is committed.

135. Whoever abets the desertion of any officer, soldier or sailor, in the Army or Navy of the Queen, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Abetment of desertion of soldier or sailor

136. Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier or sailor, in the Army or Navy of the Queen, has deserted, harbours such officer, soldier or sailor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Harbouring deserter

Exception—This provision does not extend to the case in which the harbour is given by a wife to her husband

137. The master or person in charge of a merchant vessel, on board of which any deserter from

Deserter concealed on board

the

(Chapter VII—Of Offences relating to the Army and Navy)

merchant vessel through negligence of master

the Army or Navy of the Queen is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding five hundred rupees, if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel

Abetment of act of insubordination by soldier or sailor

138. Whoever abets what he knows to be an act of insubordination by an officer, soldier or sailor, in the Army or Navy of the Queen, shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both

Application of foregoing sections to the Indian Marine Service.

138A. The foregoing sections of this Chapter shall apply as if Her Majesty's Indian Marine Service were comprised in the Navy of the Queen

Persons subject to Articles of War

139. No person subject to any Articles of War for the Army or Navy of the Queen, or for any part of such Army or Navy, is subject to punishment under this Code for any of the offences defined in this Chapter

Wearing garb or carrying token used by soldier

140. Whoever, not being a soldier in the Military or Naval service of the Queen, wears any garb or carries any token resembling any garb or token used by such a soldier, with the intention that it may be believed that he is such a soldier, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both

CHAPTER VIII

¹ § 138A was inserted by the Indian Marine Act 1887 (14 of 1887) s. 70 Genl. Acts Vol IV

(Chapter VIII—Of Offences against the Public Tranquillity)

CHAPTER VIII

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

141. An assembly of five or more persons is designated an "unlawful assembly", if the common object of the persons composing that assembly is— Unlawful assembly

First—To overawe by criminal force, or show of criminal force, the Legislative or Executive Government of India or the Government of any Presidency, or any Lieutenant Governor, or any public servant in the exercise of the lawful power of such public servant, or

Second—To resist the execution of any law, or of any legal process, or

Third—To commit any mischief or criminal trespass, or other offence, or

Fourth—By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right, or

Fifth—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do

Explanation—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly

142. Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly Being member of unlawful assembly

143. Whoever

[ACT XLV]

Indian Penal Code
(Chapter VIII—Of Offences against the Public
Tranquillity)

Punishment

143. Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both

Joining
unlawful
assembly
armed with
deadly
weapon

144. Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Joining or
continuing in
unlawful
assembly,
knowing
it has been
commanded
to disperse

145. Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Rioting

146. Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting

Punishment
for rioting

147. Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Rioting
armed with
deadly
weapon

148. Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

149. If

¹As to punishment for an offence under s. 148 enquired into by a Council of Elders in a Punjab Frontier District, in the North-West Frontier Province or in Baluchistan see the Punjab Frontier Crimes Regulation 1901 (3 of 1901) s. 12 Punjab and N.W. Code.

(Chapter VIII.—Of Offences against the Public Tranquillity.)

149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

Every member of unlawful assembly guilty of offence committed in prosecution of common object.

150. Whoever hires or engages, or employs, or promotes, or connives at the hiring, engagement or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly in pursuance of such hiring, engagement or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

Hiring, or conniving at hiring, of persons to join unlawful assembly.

151. Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse.

Explanation.—If the assembly is an unlawful assembly within the meaning of section 141, the offender will be punishable under section 145.

152. Whoever assaults or threatens to obstruct, or attempts to obstruct, in the discharge of his duty as such, or in endeavouring to disperse an assembly, or to suppress a riot or affray, or attempts to use criminal force, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

(Chapter VIII.—Of Offences against the Public Tranquillity.)

Wantonly giving provocation with intent to cause riot —

If rioting be committed ;

If not committed

Promoting enmity between classes

153. Whoever maliciously, or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

153A. Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of Her Majesty's subjects, shall be punished with imprisonment which may extend to two years, or with fine, or with both

Explanation —It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of Her Majesty's subjects

Owner or occupier of land on which an unlawful assembly is held.

154. Whenever any unlawful assembly or riot takes place the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees,

if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to

1 S 153A was added by s. 5 of the Indian Penal Code Amendment Act, 1898 (1 of 1898), Genl. Acts, Vol. V.

For Report of Select Committee, see Gazette of India, 1893, Pt. V, p. 13.

(Chapter VIII.—Of Offences against the Public Tranquillity)

to the principal officer at the nearest police-station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it and, in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly

155. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same

Liability of person for whose benefit riot is committed.

156. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom,

Liability of agent of owner or occupier for whose benefit riot is committed.

the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

157. Whoever harbours, receives or assembles in any house or premises in his occupation or charge, or under his control any persons, knowing that such

Harbouring persons hired for an unlawful assembly.

(Chapter VIII.—Of Offences against the Public Tranquillity.)

Wantonly giving provocation with intent to cause riot—

If rioting be committed;

If not committed.

Promoting enmity between classes.

153. Whoever maliciously, or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

153A. Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of Her Majesty's subjects, shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Explanation.—It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of Her Majesty's subjects

Owner or occupier of land on which an unlawful assembly is held.

154. Whenever any unlawful assembly or riot takes place the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees,

if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to

¹ S 153A was added by s. 5 of the Indian Penal Code Amendment Act, 1898 (4 of 1898), Genl. Acts, Vol. V.
For Report of Select Committee, see Gazette of India, 1898, Pt. V. p. 13.

(Chapter VIII—Of Offences against the Public Tranquillity)

to the principal officer at the nearest police-station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it and, in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly

155. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same

Liability of person for whose benefit riot is committed

156. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom,

Liability of agent of owner or occupier for whose benefit riot is committed

the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same

157. Whoever harbours, receives or assembles in any house or premises in his occupation or charge, or under his control any persons, knowing that such persons

Harbouring persons hired for an unlawful assembly

(Chapter VIII.—Of Offences against the Public Tranquillity. Chapter IX.—Of Offences by or relating to Public Servants.)

persons have been hired, engaged or employed, or are about to be hired, engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Being hired to take part in an unlawful assembly or riot;

158. Whoever is engaged or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both;

or to go armed.

and whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with anything which used as a weapon of offence is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Affray.

159. When two or more persons, by fighting in a public place, disturb the public peace, they are said to "commit an affray."

Punishment for committing affray.

160. Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

CHAPTER IX.¹

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

Public servant taking

161. Whoever, being or expecting to be a public servant.

¹For the purposes of this Chapter every railway servant shall be deemed to be a public servant.

(Chapter IX—Of Offences by or relating to Public Servants)

servant, accepts or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification other than legal remuneration, as a motive or reward for doing or forbearing to do any official act, or showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person, with the Legislative or Executive Government of India, or with the Government of any Presidency, or with the Lieutenant-Governor, or with any public officer, or with any such, shall be punished with imprisonment of any description for a term which may extend to five years, or with fine, or with both.

Explanation—“Expecting to be a public servant” If a person not expecting to be in office obtains a gratification by deceiving others in that he is about to be in office, and that he will serve them, he may be guilty of cheating, but not guilty of the offence defined in this section.

“Gratification” The word “gratification” is not restricted to pecuniary gratifications, or gratifications estimable in money.

“Legal remuneration” The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government, which he serves, to accept.

1 As to the meaning of the word “Government” in the above “legal remuneration” for the purposes of certain enactments.

(Chapter IX—Of Offences by or relating to Public Servants)

“A motive or reward for doing” A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words

Illustrations.

(a) A, a munsif, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favour of Z. A has committed the offence defined in this section

(b) A, holding the office of Resident at the Court of a subsidiary Power, accepts a lakh of rupees from the Minister of that Power. It does not appear that A accepted this sum any to

Government. But it does appear that A accepted the sum as a motive or reward for generally showing favour in the exercise of his official functions to that Power. A has committed the offence defined in this section

(c) A, a public servant induces Z erroneously to believe that A's influence with the Government has obtained a title for Z, and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this section

162. Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, [or with any member of the Senate of the Allahabad University.] or with any public servant, as such, shall be punished

¹ These words were inserted by the Allahabad University Act 1877 (18 of 1887) s 18 (2) U P Code Vol I and Genl Acts Vol IV.

(Chapter IX —Of offences by or relating to Public Servants)

punished with imprisonment of either description for a term which may extend to three years or with fine or with both

163 Whoever accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification ^{Taking gratification for exercise of personal influence with public servant} whatever as a motive or reward for inducing by the exercise of personal influence any public servant to do or to forbear to do any official act or in the exercise of the official functions of such public servant to show favour or disfavour to any person or to render or attempt to render any service or disservice to any person with the Legislative or Executive Government of India or with the Government of any Presidency or with any Lieutenant Governor [or with any member of the Senate of the Allahabad University] or with any public servant as such shall be punished with simple imprisonment for a term which may extend to one year or with fine or with both

Illustration

An advocate who receives a fee for arguing a case before a Judge a person who receives pay for arranging and correcting a memorial addressed to Government setting forth the services and claims of the memorialist a parliamentarian for a condemned criminal who lays before the Government statements tending to show that the condemnation was unjust — are all within this section inasmuch as they do not exercise or profess to exercise personal influence

164 Whoever being a public servant in respect of whom either of the offences defined in the last two preceding sections is committed abets the offence shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both ^{Punishment for abetment by public servant of offences defined in sections 163 or 164}

Illustration

A is a public servant B A's wife receives a present as a motive for soliciting A to give an office to a particular person

The words were inserted by the Allahabad University Act 1867 (18 of 1867) s. 18 (2) I.P. Code Vol I and Cor' Act s. 40 Vol II

(Chapter IA —Of Offences by or relating to Public Servants)

person A abets her doing so B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both A is punishable with imprisonment for a term which may extend to three years, or with fine, or with both

Public servant obtain
ing valuable
thing
without con-
sideration
from person
concerned in
proceeding
or business
transacted
by such
public
servant.

265. Whoever being a public servant, accepts or obtains or agrees to accept or attempts to obtain, for himself or for any other person any valuable thing without consideration, or for a consideration which he knows to be inadequate,

from any person whom he knows to have been or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate,

or from any person whom he knows to be interested in or related to the person so concerned,

shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both

Illustrations

(a) A, a Collector, hires a house of Z, who has a settlement case pending before him It is agreed that A shall pay fifty rupees a month, the house being such that, if the bargain were made in good faith, A would be required to pay two hundred rupees a month A has obtained a valuable thing from Z without adequate consideration

(b) A, a Judge, buys of Z, who has a cause pending in A's Court, Government promissory notes at a discount, when they are selling in the market at a premium A has obtained a valuable thing from Z without adequate consideration

(c) Z's brother is apprehended and taken before A, a Magistrate on a charge of perjury A sells to Z shares in a bank at a premium when they are selling in the market at a discount Z pays A for the shares accordingly The money so obtained by A is a valuable thing obtained by him without adequate consideration

166. Whoever, being a public servant, knowingly discovers any direction of the law as to the way in which

Public
servant dis-
covering law.

(Chapter IX.—Of Offences by or relating to Public Servants.)

which he is to conduct himself as such
 intending to cause, or knowing it to
 will, by such disobedience, cause injury to any person.
 son, shall be punished with simple imprisonment for
 a term which may extend to one year, or with fine,
 or with both.

Illustration.

* A, being an officer directed by law to take property in
 execution, in order to
 favour by a Court of
 tion of law, with a
 cause injury to Z.
 this section.

167. Whoever, being a public servant, and being, Public ser-
vant framing
an incorrect
document
with intent
to cause in-
jury.
 as such public servant, charged with the prepara-
 tion or translation of any document, frames or trans-
 lates that document in a manner which he knows or
 believes to be incorrect, intending thereby to cause,
 or knowing it to be likely that he may thereby cause,
 injury to any person, shall be punished with impri-
 sonment of either description for a term which may
 extend to three years, or with fine, or with both.

168. Whoever, being a public servant, and being Public ser-
vant unlaw-
fully enga-
ging in trade
 legally bound as such public servant not to engage
 in trade, engages in trade, shall be punished with
 simple imprisonment for a term which may extend
 to one year, or with fine, or with both.

169. Whoever, being a public servant, and being Public ser-
vant unlaw-
fully buying
or bidding
for property
 legally bound as such public servant, not to purchase
 or bid for certain property, purchases or bids for
 that property, either in his own name or in the name
 of another, or jointly, or in shares with others, shall
 be punished with simple imprisonment for a term
 which may extend to two years, or with fine, or with
 both; and the property, if purchased, shall be con-
 fiscated.

170. Whoever pretends to hold any particular
 office as a public servant, knowing that he does not
 hold

(Chapter IA —Of Offences by or relating to Public Servants (Chapter X —Of contempts of the lawful authority of Public Servants.)

hold such office, or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both

Wearing
garb or
carrying
token used
by public
servant with
fraudulent
intent

171. Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both

CHAPTER X.

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

Absoconding
to avoid
service of
summons
or other pro-
ceeding

172. Whoever absconds in order to avoid being served with a summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons or notice or order is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which

(Chapter A —Of contempts of the lawful authority of Public Servants)

which may extend to one thousand rupees, or with both

173. Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order,

Preventing service of summons or other proceeding or preventing publication thereof

or intentionally prevents the lawful affixing to any place of any such summons, notice or order,

or intentionally removes any such summons, notice or order from any place to which it is lawfully affixed,

or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both,

or, if the summons, notice, order or proclamation is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

174. Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, or proclamation proceeding from any public servant, as such public servant, to issue the same,

Non-attendance in obedience

intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart,

shall be punished with simple imprisonment for a term which may extend to one month, or

(Chapter X.—Of contempts of the lawful authority of Public Servants.)

which may extend to five hundred rupees, or with both;

or, if the summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Illustrations.

(a) A being legally bound to appear before the Supreme Court at Calcutta in obedience to a subpoena issuing from that Court, intentionally omits to appear. A has committed the offence defined in this section

(b) A being legally bound to appear before a Zila Judge, as a witness, in obedience to a summons issued by that Zila Judge, intentionally omits to appear. A has committed the offence defined in this section

Omission to produce document to public servant by person legally bound to produce it

175. Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the document is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Illustration.

A, being legally bound to produce a document before a Zila Court, intentionally omits to produce the same. A has committed the offence defined in this section.

Omission to give notice or information to public servant by person

176. Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in
the

(Chapter A —Of contempts of the lawful authority
of Public Servants)

the manner and at the time required by law, shall be ^{legally bound} punished with simple imprisonment for a term ^{to give it} which may extend to one month, or with fine which may extend to five hundred rupees, or with both,

or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both

177 Whoever, being legally bound to furnish ^{furnish or} information on any subject to any public servant, as ^{false inform} such, furnishes, as true, information on the subject ^{ation} which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both,

or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Illustrations

(a) A, a landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the district that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this section

(b) A, a village watchman, whose body of strangers has passed, commit a dacoity in the house of a person residing in a neighbouring place, and being bound, under clause 6, section VII, Regulation III, 1821, of the Bengal Code,

(Chapter X —Of contempts of the lawful authority of Public Servants)

Code, to give early and punctual information of the above fact to the officer of the nearest police station, wilfully misinforms the police officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in the latter part of this section

¹*Explanation* —In section 176 and in this section the word offence includes any act committed at any place out of British India which, if committed in British India would be punishable under any of the following sections namely, 302 304, 382 392, 393 394, 395 396, 397 398 399 402, 435, 436, 449 450 457, 458, 459 and 460, and the word ' offender ' includes any person who is alleged to have been guilty of any such act

Refusing
oath or
affirmation
when duly
required by
public
servant to
make it

178. Whoever refuses to bind himself by an oath [or affirmation] to state the truth when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both

Refusing to
answer public
servant
authorized
to question

179 Whoever being legally bound to state the truth on any subject to any public servant refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both

Refusing
to sign
statement

180 Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three

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of Public Servants)

three months, or with fine which may extend to five hundred rupees, or with both

181. Whoever, being legally bound by an oath False state-
ment on
oath or
affirmation
to public
servant or
person au-
thorized to
administer
an oath or
affirmation. '[or affirmation] to state the truth on any subject to any public servant or other person authorized by law to administer such oath '[or affirmation], makes to such public servant or other person as aforesaid, touching that subject any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine

182 Whoever gives to any public servant any information which he knows or believes to be false, False in-
formation
with intent
to cause
public ser-
vant to use
his lawful
power to the
injury of,
another
person intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Illustrations

(a) A informs a Magistrate that Z, a police officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and

¹ These words were inserted by the Indian Oaths Act 1833 (10 of 1833) s. 15, Genl Acts, Vol II

² This section was substituted for the original s. 182 by the Indian Criminal Law Amendment Act, 1860 (3 of 1860) s. 1, Genl Acts, Vol IV

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and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

(b) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.

(c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.

183. Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

184. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

185. Whoever, at any sale of property held by the lawful authority of a public servant, as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

186. Whoever

Resistance to taking of property by lawful authority of public servant.

Obstructing sale of property offered for sale by authority of public servant.

Illegal purchase or bid for property offered for sale by authority of public servant.

(Chapter X—Of contempts of the lawful authority of Public Servants)

186. Whoever servant in the disc^{tion}
 be punished with
 for a term which may extend to three months, or
 with fine which may extend to five hundred rupees,
 or with both

187. Whoever, being bound by law to render or furnish assistance to any public servant in the execu-
 tion of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month,
 or with fine which may extend to two hundred rupees, or with both; Omission to assist public servant when bound by law to give assistance

and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or of suppressing a riot or affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both

188. Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, Disobedience to order duly promulgated by public servant

shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month
 or

* See Merchant Shipping Act, 1853 (5 of 1853), s. 14 (2), Genl. Act., Vol. III

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or with fine which may extend to two hundred rupees, or with both,

and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration

An order is promulgated by a public servant lawfully empowered to promulgate such order directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order and thereby causes danger of riot. A has committed the offence defined in this section.

Threat of
injury to
public
servant

189. Whoever holds out any threat of injury to any public servant or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Threat of
injury to
any person
to refrain
from
applying for
protection to
public
servant

190. Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such to give such protection or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year or with fine or with both.

(Chapter XI.—Of false Evidence and Offences against Public Justice)

CHAPTER XI¹

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

191. Whoever being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence Giving false evidence

Explanation 1—A statement is within the meaning of this section, whether it is made verbally or otherwise

Explanation 2—A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know

Illustrations

(a) A, in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence

(b) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.

(c) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here

A's

¹ As to punishment for offences under ss. 193 to 196, 201, 211, 212, enquired into by a Council of Elders in a Punjab Frontier District, in the North West Frontier Province or in Baluchistan see the Punjab Frontier Crimes Regulation 1901 (3 of 1901) s. 12, Punjab and N. W. Code

(Chapter XI—Of false Evidence and Offences against Public Justice)

Illustration

A, in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Giving or fabricating false evidence with intent to procure conviction of capital offence,

194. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital ¹[by the law of British India or England], shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine,

if innocent person be thereby convicted and executed

and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described

Giving or fabricating false evidence with intent to procure conviction of offence punishable with transportation or imprisonment

195. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which ¹[by the law of British India or England] is not capital, but punishable with transportation for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished

Illustration

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is transportation for life, or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to such transportation or imprisonment, with or without fine.

196. Whoever

¹ These words were substituted for the words "by this Code" by the Indian Railways Act 1890 (9 of 1890) s 149, Genl Acts Vol IV

(Chapter XI.—Of false Evidence and Offences against Public Justice.)

196. Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence. Using evidence known to be false.

197. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence. Issuing or signing false certificate.

198. Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence. Using as true a certificate known to be false.

199. Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence. False statement made in declaration which is by law receivable as evidence.

200. Whoever corruptly uses or attempts to use the same to be punished in the same manner as if he gave false evidence. Using as true such declaration knowing it to be false.

Explanation.—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of sections 199 and 200.

201. Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, or to be destroyed, or to be concealed, or to be tampered with, or to be otherwise disposed of, so as to prevent its production in any legal proceedings, shall be punished in the same manner as if he gave false evidence. Causing disappearance of evidence of offence, or tampering with it, or otherwise disposing of it, so as to prevent its production in any legal proceedings.

Indian Penal Code [ACT XLV
(Chapter XI—Of false Evidence and Offences
against Public Justice)]

information, to screen offender— appear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false,

if a capital offence, shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine,

if punishable with transportation and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine,

if punishable with less than ten years imprisonment and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both

Illustration

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

Intentional omission to give information of offence by person bound to inform. 202. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Giving false information respecting an 203. Whoever, knowing or having reason to believe that an offence has been committed, gives any information

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against Public Justice)*

information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

offence com-
mitted

¹*Explanation*—In sections 201 and 202 and in this section the word ‘offence’ includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460

204. Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant, as such, or, obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Destruction
of document
to prevent its
production
as evidence

205. Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

False person-
ation for
purpose of
act or pro-
ceeding in
suit or
prosecution

206. Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that

Fraudulent
removal or
concealment
of property

¹ This Explanation was added by the Indian Criminal Law Amendment Act 1891 (3 of 1891) s. 7, Genl. Acts. Vol. IV

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to prevent
its seizure as
forfeited or
in execution

that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Fraudulent
claim to pro-
perty to
prevent its
seizure as
forfeited or
in execution

207. Whoever fraudulently accepts, receives or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Fraudulently
suffering
decree for
sum not due

208. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person or for any property or interest in property to which such person is not entitled or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both

Illustration

(Chapter XI—Of false Evidence and Offences against Public Justice)

Illustration

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.

209. Whoever fraudulently or dishonestly, or with intent to injure or annoy any person makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

210. Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be obtained against any person after it has been obtained in respect of which it is known that he fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both,

and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, or imprisonment for seven years or upwards, shall be punishable with imprison-

ment

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to prevent
its seizure as
forfeited or
in execution

that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Fraudulent
claim to pro-
perty to pro-
vent its
seizure as
forfeited or
in execution

207. Whoever fraudulently accepts, receives or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both

Fraudulently
suffering,
loss for
sum not due

208. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person or for any property or interest in property to which such person is not entitled or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both

(Chapter XI—Of false Evidence and Offences against Public Justice)

Illustration

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.

209. Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Dishonestly making false claim in court

210. Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied or for anything in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently obtaining decree for sum not due

211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both,

False charge of offence made with intent to injure

and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, or imprisonment for seven years or upwards, shall be punishable with imprison-

ment

(Chapter XI.—Of false Evidence and Offences against Public Justice.)

to prevent
its seizure as
forfeited or
in execution

that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulent
claim to pro-
perty to
prevent its
seizure as
forfeited or
in execution

207. Whoever fraudulently accepts, receives or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently
suffering
decree for
sum not due

208. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

(Chapter XI—Of false Evidence and Offences against Public Justice)

Illustration

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.

209. Whoever fraudulently or dishonestly, or with intent to injure or annoy any person makes in a Court of Justice any claim which he knows to be false shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

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211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both,

and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, or imprisonment for seven years or upwards, shall be punishable with imprison-

ment

(Chapter XI—Of false Evidence and Offences against Public Justice)

to prevent
its seizure as
forfeited or
in execution

that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Fraudulent
claim to pro-
perty to
prevent its
seizure as
forfeited or
in execution

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Fraudulently
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(Chapter XI—Of false Evidence and Offences against Public Justice)

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A institutes a suit against Z Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z may share in the proceeds of any sale of Z's property which may be made under A's decree Z has committed an offence under this section

209. Whoever fraudulently or dishonestly, or with intent to injure or annoy any person makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine

210. Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied or for anything in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both,

and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, or imprisonment for seven years or upwards, shall be punishable with imprison-

ment,

(Chapter XI.—Of false Evidence and Offences against Public Justice.)

to prevent
its seizure as
forfeited or
in execution

that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulent
claim to pro-
perty to
prevent its
seizure as
forfeited or
in execution

207. Whoever fraudulently accepts, receives or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently
suffering
decree for
sum not due

208. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

(Chapter XI—Of false Evidence and Offences
against Public Justice)

Illustration

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffices a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.

209. Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Dishonestly
making false
claim in
court

210. Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied or for anything in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently
obtaining
decree for
sum not due

211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both,

False charge
of offence
made with
intent to
injure

and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, or imprisonment for seven years or upwards, shall be punishable with imprison-

(Chapter XI—Of false Evidence and Offences
against Public Justice)

ment of either description for a term which may extend to seven years, and shall also be liable to fine

Harbouring
offender—

212. Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment,

If a capital
offence

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine,

if punish-
able with
transport-
ation for
life or with
imprison-
ment

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine,

and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both

¹ "Offence" in this section includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460, and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India

Exception—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender

Illustration

¹ This paragraph was inserted by the Indian Criminal Law Amendment Act, 1891 (3 of 1891) s. 7, Genl. Acts Vol. 14

(Chapter XI—Of false Evidence and Offences against Public Justice)

Illustration

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to transportation for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine

213. Whoever accepts or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence or of his not proceeding against any person for the purpose of bringing him to legal punishment

Taking gift etc to screen an offender from punishment—

shall if the offence is punishable with death be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine,

if a capital offence,

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine,

if punishable with transportation for life or with imprisonment

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both

214. Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

Offering gift or restoration of property in consideration of screening an offender

shall,

(Chapter XI—Of false Evidence and Offences against Public Justice)

case in which the harbour or concealment is by the husband or wife of the person to be apprehended

Penalty for
harbouring
robbers or
dacoits

216A. Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity, or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine

Explanation—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, with in or without British India

Exception—This provision does not extend to the case in which the harbour is by the husband or wife of the offender

Definition of
harbour
in sections
212 216 and
216A

216B. In sections 212, 216 and 216A the word 'harbour' includes the supplying a person with shelter food drink, money clothes arms, ammunition or means of conveyance or the assisting a person in any way to evade apprehension

Public ser-
vant disobey-
ing direc-
tion of law
with intent
to save per-
son from
punishment
or property
from for-
feiture

217. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

218. Whoever,

¹ Sec. 216A and 216B were inserted by the Indian Criminal Law Amendment Act 1891 (1 of 1891) s. 8, Genl Acts Vol IV

(Chapter XI—Of false Evidence and Offences against Public Justice.)

218. Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

219. Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both

220. Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or confinement, or keeps any person in confinement, in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

221. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping

(Chapter XI.—Of false Evidence and Offences against Public Justice.)

escaping or attempting to escape from such confinement, shall be punished as follows, that is to say :—

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with death; or

with imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with transportation for life or imprisonment for a term which may extend to ten years; or

with imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with imprisonment for a term less than ten years.

222. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence, ¹[or lawfully committed to custody] intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say :—

with transportation for life or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have

¹ These words were inserted by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 8, Genl Acts, Vol II

(Chapter XI.—Of false Evidence and Offences
against Public Justice.)

have been apprehended, is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to transportation for life or penal servitude for life, or to transportation or penal servitude or imprisonment for a term of ten years or upwards, or

with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, to imprisonment for a term not extending to ten years, [or if the person was lawfully committed to custody]

223. Whoever, being a public servant legally bound as such public servant to keep any person charged with or convicted [or lawfully committed to custody] suffers such person to escape from confinement
be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

224. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Resistance or obstruction by a person to his lawful apprehension.

Explanation—The punishment in this section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

225. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to Resistance or obstruction to lawful apprehension

1 These words were added by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 8, Genl. Act, Vol. II.

(Chapter XI—Of false Evidence and Offences against Public Justice)

f another
erson

to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both,

or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine,

or, if the person to be apprehended or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

or, if the person to be apprehended or rescued, or attempted to be rescued is liable, under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to transportation for life, or to transportation, penal servitude, or imprisonment for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine,

or, if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine

225A. Whoever,

¹ Sec. 23 A and 23 B were substituted by the Indian Criminal Law Amendment Act 1886 (11 of 1886) s 21 (2) Genl Acts Vol III for s 22 A which was inserted by the Indian Penal Code Amendment Act 1870 (27 of 1870) s 3

The IV and V of the Code apply to offences punishable under ss 225 A and 225 B—see the Indian Penal Code Amendment Act 1870 (27 of 1870) s 13 as amended by the Repealing and Amending Act 1891 (12 of 1891) Genl Acts Vol IV

(Chapter XI.—Of false Evidence and Offences against Public Justice.)

225A. Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 221, section 222 or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished—

Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise provided for.

(a) if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and

(b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

225B. Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for.

226. Whoever, having been lawfully transported, returns from such transportation, the term of such transportation not having expired, and his punishment not having been remitted, shall be punished with transportation for life, and shall also be liable to fine, and to be imprisoned with rigorous imprisonment for a term not exceeding three years before he is so transported.

Unlawful return from transportation.

227. Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished

Violation of condition of remission of punishment.

[ACT XLV]

Indian Penal Code.

(Chapter XI.—Of false Evidence and Offences against Public Justice. Chapter XII.—Of Offences relating to Coin and Government Stamps.)

punished with the punishment to which he was originally sentenced, if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

Intentional
insult or in-
terruption to
public ser-
vant sitting
in judicial
proceeding

228. Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Personation
of a juror
or assessor

229. Whoever, by personation or otherwise, shall intentionally cause, or knowingly suffer himself to be returned, empanelled or sworn as a jurymen or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled or sworn, or knowing himself to have been so returned, empanelled or sworn contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CHAPTER XII.

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

Coin "de-
ned

230. "[Coin is metal used for the time being as money, and stamped and issued by the authority of some State or Sovereign Power in order to be so used.]

Queen's coin.

"[Queen's coin is metal stamped and issued by the

¹ This paragraph was substituted for the original paragraph by the Indian Penal Code Amendment Act, 1872 (19 of 1872), Genl. Acts, Vol. II

² This paragraph was substituted for the original paragraph, by the Indian Penal Code Amendment Act, 1896 (6 of 1896), s. 1 (I), Genl. Acts, Vol. IV.

(Chapter XII—Of Offences relating to Coin and Government Stamps)

the authority of the Queen, or by the authority of the Government of India, or of the Government of any Presidency, or of any Government in the Queen's dominions, in order to be used as money, and metal which has been so stamped and issued shall continue to be the Queen's coin for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money]

Illustrations

(a) Cowries are not coin

(b) Lumps of unstamped copper, though used as money, are not coin

(c) Medals are not coin, inasmuch as they are not intended to be used as money

(d) The coin denominated as the Company's rupee is the Queen's coin

'[(e) The "Farukhabad" rupee which was formerly used as money under the authority of the Government of India, is Queen's coin although it is no longer so used]

231. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine

Counterfeiting coin

Explanation --A person commits this offence who intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin

232. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Counterfeiting Queen's coin

233. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells

Making or selling instrument for

1 This Illustration was added by the Indian Penal Code Amendment Act 1890 (6 of 1890) s. 1 (9) Genl. Act, Vol. II

(Chapter XII—Of Offences relating to Coin and Government Stamps)

counterfeit
ing coin

sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine

Making or
selling in
instrument of
counterfeit
ing coin

234. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

Possession of
instrument
or material
for the pur
pose of using
the same for
counterfeit
ing coin

235. Whoever is in possession of any instrument or material, for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine,

if Queen's
coin.

and if the coin to be counterfeited is the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Abetting in
India the
counterfeit
ing out of
India of coin

236. Whoever, being within British India, abets the counterfeiting of coin out of British India, shall be punished in the same manner as if he abetted the counterfeiting of such coin within British India

Import or
export of
counterfeit
coin

237. Whoever imports into British India, or exports therefrom, any counterfeit coin, knowing or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine

Import or
export of

238. Whoever imports into British India, or exports therefrom, any counterfeit coin which he knows

or

(Chapter XII—Of Offences relating to Coin and Government Stamps)

or has reason to believe to be a counterfeit of the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

counterfeits of Queen's coin

239. Whoever, having any counterfeit coin, which at the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine

Delivery of coin, possessed with knowledge that it is counterfeit

240. Whoever, having any counterfeit coin which is a counterfeit of the Queen's coin, and which, at the time when he became possessed of it, he knew to be a counterfeit of the Queen's coin, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Delivery of Queen's coin possessed with knowledge that it is counterfeit

241. Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both

Delivery of coin as genuine which when first possessed the deliverer did not know to be counterfeit

Illustration

A, a coiner, delivers counterfeit Company's rupees to his accomplice B, for the purpose of uttering them. B sells the rupees to C, another utterer, who buys them knowing them to be counterfeit. C pays away the rupees for goods to D, who receives them, not knowing them to be counterfeit. D, after receiving the rupees, discovers that they are counterfeit

counterfeit

(Chapter XII.—Of Offences relating to Coin and Government Stamps.)

counterfeit-
ing coin

sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Making or
selling in-
strument for
counterfeit-
ing Queen's
coin

234. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Possession of
instrument or
material for the
purpose of using
the same for
counterfeit-
ing coin.

235. Whoever is in possession of any instrument or material, for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

if Queen's
coin.

and if the coin to be counterfeited is the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetting in
India the
counterfeit-
ing out of
India of coin

236. Whoever, being within British India, abets the counterfeiting of coin out of British India, shall be punished in the same manner as if he abetted the counterfeiting of such coin within British India.

Import or
export of
counterfeit

237. Whoever imports into British India, or exports therefrom, any counterfeit coin, knowing or having reason to believe that it is intended to be used for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Import or
export of

238. Whoever imports into British India, or exports therefrom, any counterfeit coin which he knows

(Chapter XII—Of Offences relating to Coin and Government Stamps)

or has reason to believe to be a counterfeit of the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

counterfeit is of Queen's coin

239. Whoever, having any counterfeit coin, which at the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine

Delivery of coin possessed with knowledge that it is counterfeit

240. Whoever, having any counterfeit coin which is a counterfeit of the Queen's coin, and which, at the time when he became possessed of it, he knew to be a counterfeit of the Queen's coin, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Delivery of Queen's coin possessed with knowledge that it is counterfeit

241. Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both

Delivery of coin as genuine which when first possessed by a deliverer he did not know to be counterfeit

Illustration

A, a coiner, delivers counterfeit Company's rupees to his accomplice B, for the purpose of uttering them. B sells the rupees to C, another utterer, who buys them knowing them to be counterfeit. C pays away the rupees for goods to D, who receives them, not knowing them to be counterfeit. D, after receiving the rupees, discovers that they are

(Chapter XII—Of Offences relating to Coin and Government Stamps)

counterfeit and pays them away as if they were good. Here D is punishable only under this section, but B and C are punishable under section 239 or 240, as the case may be.

Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof

242. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of Queen's coin by person who knew it to be counterfeit when he became possessed thereof

243. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, which is a counterfeit of the Queen's coin, having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Person employed in mint causing coin to be of different weight or composition from that fixed by law

244. Whoever, being employed in any mint lawfully established in British India, does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Unlawfully taking coin as instrument from mint

245. Whoever, without lawful authority, takes out of any mint, lawfully established in British India, any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulently or dishonestly imitating or altering composition of coin

246. Whoever fraudulently or dishonestly performs on any coin any operation, which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation

(Chapter XII—Of Offences relating to Coin and Government Stamps)

Explanation—A person who scoops out part of the coin and puts anything else into the cavity, alters the composition of that coin

247. Whoever fraudulently or dishonestly performs on any of the Queen's coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine

Fraudulently or dishonestly diminishing weight or altering composition of Queen's coin

248. Whoever performs on any coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine

Altering appearance of coin with intent that it shall pass as coin of different description

249. Whoever performs on any of the Queen's coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

Altering appearance of Queen's coin with intent that it shall pass as coin of different description

250. Whoever, having coin in his possession with respect to which the offence defined in section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine

Delivery of coin, possessed with knowledge that it is altered

251. Whoever, having coin in his possession with respect to which the offence defined in section 247 or

Delivery of Queen's coin possessed

(Chapter XII—Of Offences relating to Coin and Government Stamps)

with know-
edge that it
is altered

249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Possession
of coin by
person who
knew it to be
altered when
he became
possessed
thereof

252 Whoever fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the sections 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine

Possession of
Queen's coin
by person
who knew it
to be altered
when he be-
came
possessed
thereof

253. Whoever fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the sections 247 or 249 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine

Delivery of
coin as
genuine
which when
first
possessed the
deliverer did
not know to
be altered

254. Whoever delivers to any other person as genuine or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine, or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in sections 246, 247, 248 or 249 has been performed, but in respect of which he did not, at the time when he took it into his possession know that such operation had been performed shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may

(Chapter XII—Of Offences relating to Coin and Government Stamps)

may extend to ten times the value of the coin for which the altered coin is passed, or attempted to be passed

255. Whoever counterfeits, or knowingly per-
forms any part of the process of counterfeiting, any stamp issued by Government for the purpose of re-
venue, shall be punished with transportation for
life or with imprisonment of either description for
a term which may extend to ten years, and shall also
be liable to fine

Counterfeit-
ing Govern-
ment
stamp

Explanation—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination

256. Whoever has in his possession any instru-
ment or material for the purpose of being used, or
knowing or having reason to believe that it is intend-
ed to be used, for the purpose of counterfeiting any
stamp issued by Government for the purpose of
revenue, shall be punished with imprisonment of
either description for a term which may extend to
seven years, and shall also be liable to fine

Having pos-
session of
instrument or
material for
counterfeiting
Government
stamp

257. Whoever makes or performs any part of the
process of making, or buys, or sells, or disposes of,
any instrument for the purpose of being used, (1
knowing or having reason to believe that it is intend-
ed to be used, for the purpose of counterfeiting any
stamp issued by Government for the purpose of
revenue, shall be punished with imprisonment of
either description for a term which may extend to
seven years, and shall also be liable to fine

Making or
selling in-
strument
for counter-
feiting
Government
stamp

258. Whoever sells or offers for sale, any stamp
which he knows or has reason to believe to be a
counterfeit of any stamp issued by Government for
the purpose of revenue, shall be punished with

Sale of
counterfeit
Government
stamp

imprisonment

(Chapter XII.—Of Offences relating to Coin and Government Stamps.)

imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of counterfeit Government stamp.

259. Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use, or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Using as genuine a Government stamp known to be counterfeit.

260. Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Effacing writing from substance bearing Government stamp, or removing from document a stamp used for it, with intent to cause loss to Government.

261. Whoever fraudulently or with intent to cause loss to the Government, removes or effaces from any substance bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Using Government stamp known to have been before used

262. Whoever fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both.

Erasure of mark denoting that stamp has been used.

263. Whoever fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue,

(Chapter XII—Of Offences relating to Coin and Government Stamps)

nuc, any mark, put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession or sells or disposes of, any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

263A. (1) Whoever—

Prohibition
of fictitious
stamps

- (a) makes, knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or
- (b) has in his possession, without lawful excuse, any fictitious stamp, or
- (c) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

shall be punished with fine which may extend to two hundred rupees

(2) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp may be seized and shall be forfeited

(3) In this section "fictitious stamp" means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose

(4) to 263,
both in n used
in contr stamp
issued

(Chapter XIII—Of Offences relating to Weights and Measures)

issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in section 17, be deemed to include the person or persons authorized by law to administer executive government in any part of India, and also in any part of Her Majesty's dominions or in any foreign country.

CHAPTER XIII

OF OFFENCES RELATING TO WEIGHTS AND MEASURES

Fraudulent
use of false
instrument
for weighing

264. Whoever fraudulently uses any instrument for weighing which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both

Fraudulent
use of false
weight or
measure

265. Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both

Being in pos-
session of
false weight
or measure

266. Whoever is in possession of any instrument for weighing, or of any weight, or of any measure of length or capacity, which he knows to be false, and intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both

Making or
selling false
weight or
measure

267. Whoever makes, sells or disposes of any instrument for weighing, or any weight, or any measure of length or capacity which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both

CHAPTER XIV.

(Chapter XIV.—Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

CHAPTER XIV.

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

268. A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right. Public nuisance.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

269. Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both. Negligent act likely to spread infection of disease dangerous to life.

270. Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Malignant act likely to spread infection of disease dangerous to life.

271. Whoever knowingly disobeys any rule made and promulgated by the Government of India, or by any Government, for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment Disobedience to quarantine rule.

(Chapter XIV—Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals)

ment of either description for a term which may extend to six months, or with fine, or with both

Adulteration
of food or
drink
intended
for sale

272. Whoever adulterates any article of food or drink so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Sale of
noxious food
or drink.

273. Whoever sells or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both

Adulteration
of drugs.

274 Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Sale of
adulterated
drugs.

275. Whoever knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation or to render it noxious sells the same, or offers or exposes it for sale or issues it from any dispensary
for

(Chapter XIV.—Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

276. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation, as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

278. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees.

279. Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

280. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall

(Chapter XIV—Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals)

ment of either description for a term which may extend to six months, or with fine, or with both

Adulteration
of food or
drink
intended
for sale

272. Whoever adulterates any article of food or drink so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Sale of
noxious food
or drink

273. Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Adulteration
of drugs

274. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sale of
adulterated
drugs

275. Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary
for

(Chapter XIV—Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals)

for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

276. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Sale of drug as a different drug or preparation

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both

Fouling water of public spring or reservoir

278. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees

Making atmosphere noxious to health.

279. Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both

Rash driving or riding on a public way

280. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall

Rash navigation of vessel

(Chapter XIV—Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals)

ment of either description for a term which may extend to six months, or with fine, or with both

Adulteration
of food or
drink
intended
for sale

272. Whoever adulterates any article of food or drink so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both

Sale of
noxious food
or drink

273. Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Adulteration
of drugs.

274. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sale of
adulterated
drugs

275. Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary
for

(Chapter XIV—Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

276. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation, as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sale of drug as a different drug or preparation.

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Fouling water of public spring or reservoir.

278. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees.

Making atmosphere noxious to health.

279. Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Rash driving or riding on a public way.

280. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall

Rash navigation of vessel.

(Chapter XIV—Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals)

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both

Falsification
of false
light mark
or buoy

281. Whoever exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine or with both

Conveying
person by
water for
hire in un-
safe or over-
loaded vessel

282. Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Danger or
obstruction
in public
way or line
of naviga-
tion

283. Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred rupees

Negligent
conduct with
respect to
poisonous
substance

284. Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any person,

or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against probable danger to human life from such poisonous substance,

shall be punished with imprisonment of either description for a term which may extend to six months or with fine, which may extend to one thousand rupees, or with both

285. Whoever



ACT No X OF 1891.¹

[19th March, 1891.]

An Act to amend the ² Indian Penal Code.³

* * * *

(As modified up to 1st August, 1909.)

WHEREAS it is expedient to amend the ² Indian Penal Code * * * *;

It is hereby enacted as follows:—

² Indian Penal Code.

1. In section 375 of the ² Indian Penal Code, in the clause marked *Fifthly* and in the *Exception*, the word "twelve" shall be substituted for the word "ten."
Amendment of section 375, Act XLV, 1860.

* * * *

¹ Short Title, "The Indian Short Titles Act, 1891" etc.

the Indian Short Titles Act

For Statement of Of

Pt V, p. 5, for Report

Debates in Council, see

p. 5, and Pt. VI, pp. 6 and 39

As being part of Act 45 of 1860 the Act is in force in Upper Burma

(except the Shan States) see the Burma Act 1892 (12 of 1892) No.

(3 of 1899), Ben. Code, Vol. I.

² Genl. Acts, Vol. I.

³ The rest of the title and preamble relates to the Code of Criminal Procedure, 1832 (Act 10 of 1832), which was repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

⁴ The rest of the Act, ss. 2 and 3, was repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

(Chapter XIV.—Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

285. Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

Negligent conduct with respect to fire or combustible matter.

or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

286. Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

Negligent conduct with respect to explosive substance

or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

287. Whoever does, with any machinery, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

Negligent conduct with respect to machinery.

or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery.

shall be punished with imprisonment of either description for a term which may extend to six months,

(Chapter XIV.—Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals)

months, or with fine which may extend to one thousand rupees, or with both

Negligent
conduct with
respect to
pulling
down or re-
pairing build-
ings

288. Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both

Negligent
conduct with
respect to
animal

289. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Punishment
for public
nuisance in
cases not
otherwise
provided for

290. Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred rupees

Continuance
of nuisance
after injunc-
tion to dis-
continue

291. Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months or with fine, or with both

Sale etc of
obscene
books etc

292. Whoever sells or distributes imports or prints for sale or hire, or wilfully exhibits to public view, any obscene book, pamphlet, paper, drawing, painting, representation or figure, or attempts, or offers so to do shall be punished with imprisonment of either description for a term which may extend to three months or with fine, or with both

Exception

(Chapter XIV—Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals)

Exception—This section does not extend to any representation sculptured, engraved, painted or otherwise represented, on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose

293. Whoever has in his possession any such obscene book or other thing as is mentioned in the last preceding section for the purpose of sale, distribution or public exhibition, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both

Having in possession obscene book, etc for sale or exhibition

294. Whoever, to the annoyance of others,

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene songs, ballad or words in or near any public place,

Obscene acts and songs

shall be punished with imprisonment of either description for a term which may extend to three months or with fine, or with both

294A. Whoever keeps any office or place for the purpose of drawing any lottery not authorized by Government shall be punished with imprisonment of either description for a term which may extend to six months or with fine, or with both

Keeping lottery-office.

And whoever publishes any proposal to pay any sum or to deliver any goods, or to do or forbear doing anything for the benefit of any person on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery

1 This section was substituted for the original 294 by the Indian

(Chapter XV.—Of Offences relating to Religion.)

lottery, shall be punished with fine which may extend to one thousand rupees.

CHAPTER XV.

OF OFFENCES RELATING TO RELIGION.

Injuring or defiling place of worship, with intent to insult the religion of any class

295. Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Disturbing religious assembly

296. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship, or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Trespassing on burial-places, etc.

297. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby,

commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies,

shall

(Chapter XV—Of Offences relating to Religion
Chapter XVI—Of Offences affecting the
Human Body)

shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both

298. Whoever, with deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both

CHAPTER XVI

OF OFFENCES AFFECTING THE HUMAN BODY

*Of Offences affecting Life*¹

299. Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Illustrations

(a) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused Z, believing the ground to be firm, treads on it, falls in and is killed A has committed the offence of culpable homicide

(b) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause, Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence, but A has committed the offence of culpable homicide.

(c) A.

(Chapter XVI—Of Offences affecting the Human Body)

(c) A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush, A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or cause death by doing an act that he knew was likely to cause death.

Explanation 1—A person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3—The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

300. Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

2ndly—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

3rdly—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

4thly—If the person committing the act knows that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any

(Chapter XVI—Of Offences affecting the Human Body)

any excuse for incurring the risk of causing death or such injury as aforesaid

Illustrations

(a) A shoots Z with the intention of killing him Z dies in consequence A commits murder

(b) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury Z dies in consequence of the blow A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death or such bodily injury as in the ordinary course of nature would cause death

(c) A intentionally gives Z a sword cut or club wound sufficient to cause the death of a man in the ordinary course of nature Z dies in consequence Here A is guilty of murder, although he may not have intended to cause Z's death

(d) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them A is guilty of murder, although he may not have had a premeditated design to kill any particular individual

Exception 1—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation, or causes the death of any other person by mistake or accident

When culpable homicide is not murder

The above exception is subject to the following provisos —

First—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person

Secondly

(Chapter XVI—Of Offences affecting the Human Body)

Secondly—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant

Thirdly—That the provocation is not given by anything done in the lawful exercise of the right of private defence

Explanation—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact

Illustrations.

(a) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation

(b) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide

(c) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his powers

(d) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder

(e) A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence

(f) Z strikes B. B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage and to cause him to kill Z, puts a knife into B's hand

(Chapter XVI—Of Offences affecting the Human Body)

hand for that purpose B kills Z with the knife Here B may have committed only culpable homicide, but A is guilty of murder

Exception 2—Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence

Illustration

Z attempts to horsewhip A, not in such a manner as to cause grievous hurt to A A draws out a pistol Z persists in the assault A, believing in good faith that he can by no other means prevent himself from being horsewhipped, shoots Z dead A has not committed murder, but only culpable homicide

Exception 3—Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill will towards the person whose death is caused

Exception 4—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner

Explanation—It is immaterial in such cases which party offers the provocation or commits the first assault

Exception 5—Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent

Illustration

(Chapter XVI.—Of Offences affecting the Human Body)

Illustration

A, by instigation, voluntarily causes Z, a person under eighteen years of age, to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death, A has therefore abetted murder

Culpable homicide by causing death of person other than person whose death was intended,

301. If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause

Punishment for murder

302. Whoever commits murder shall be punished with death, or transportation for life, and shall also be liable to fine

Punishment for murder by life convict,

303. Whoever, being under sentence of transportation for life, commits murder, shall be punished with death

Punishment for culpable homicide not amounting to murder

304. Whoever commits culpable homicide not amounting to murder, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death;

or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death or to cause such bodily injury as is likely to cause death

Causing death by negligence

304A. Whoever causes the death of any person by

¹ S. 304A was inserted by the Indian Penal Code Amendment Act 1870 (27 of 1870) s. 12, Genl. Acts Vol. II.

Chs. IV V and XVIII of the Code apply to offences punishable under s. 304A—see the Indian Penal Code Amendment Act 1870 (27 of 1870) s. 13 Genl. Acts, Vol. II.

(Chapter XVI—Of Offences affecting the Human Body)

by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

305. If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication commits suicide, whoever abets the commission of such suicide, shall be punished with death or transportation for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine

Abetment of suicide of child or insane person

306. If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Abetment of suicide

307. Whoever does any act with such intention or knowledge and under such circumstances, that if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, and, if hurt is caused to any person by such act, the offender shall be liable either to transportation for life, or to such punishment as is hereinbefore mentioned

Attempt to murder

¹ When any person offending under this section is under sentence of transportation for life, he may, if hurt is caused, be punished with death

Attempt to life-convict

Illustrations

(a) A shoots at Z with intention to kill him, under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this section

(b) A with the intention of causing the death of a child of tender years exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue

(c) A,

¹ This clause was added by the Indian Penal Code Amendment Act 18 of 1870 s. 11, Genl. Acts, Vol II

(Chapter XVI—Of Offences affecting the Human Body)

(c) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section, and, if by such firing he wounds Z, he is liable to the punishment provided by the latter part of '[the first paragraph of] this section.

(d) A, intending to murder Z, and mixes the same with food. A has not yet committed the offence. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this section.

Attempt
to commit
culpable
homicide

308. Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both, and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Illustration

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section.

Attempt to
commit
suicide

309. Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year, '[or with fine, or with both]

Thug

310. Whoever, at any time after the passing of this Act, shall have been habitually associated with any other or others for the purpose of committing robbery

¹ These words were inserted by the Repealing and Amending Act 1891 (12 of 1891) Sch II, Genl Acts Vol IV

² These words were substituted for the words "and shall also be liable to fine" by the Indian Penal Code Amendment Act 1882 (8 of 1882) s 7, Genl Acts Vol III

(Chapter XVI.—Of Offences affecting the Human Body.)

robbery or child-stealing by means of or accompanied with murder, is a thug.

311. Whoever is a thug, shall be punished with Punishment. transportation for life, and shall also be liable to fine.

Of the Causing of Miscarriage, of Injuries to unborn Children, of the Exposure of Infants, and of the Concealment of Births.

312. Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Causing miscarriage.

Explanation—A woman who causes herself to miscarry, is within the meaning of this section.

313. Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Causing miscarriage without woman's consent.

314. Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; Death caused by act done with intent to cause miscarriage.

and if the act is done without the consent of the woman, shall be punished either with transportation for life, or with the punishment above mentioned. If act done without woman's consent.

Explanation.—It is not essential to this offence that the offender should know that the act is likely to cause death.

315. Whoever

(Chapter XVI.—Of Offences affecting the Human Body.)

Act done with intent to prevent child being born alive or to cause it to die after birth.

315. Whoever before the birth of any child does any act with the intent child from being born its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

Causing death of quick unborn child by act amounting to culpable homicide

316. Whoever does any act under such circumstances, that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Illustration.

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured but does not die; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this section.

Exposure and abandonment of child under twelve years, by parent or person having care of it

317. Whoever being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation—This section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure.

318. Whoever,

(Chapter XVI.—Of Offences affecting the Human Body.)

318. Whoever, by secretly burying or otherwise disposing of the dead body of a child, whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Concealment
of birth by
secret dis-
posal of dead
body.

Of Hurt.¹

319. Whoever causes bodily pain, disease, or infirmity to any person is said to cause hurt.

Hurt.

320. The following kinds of hurt only are designated as "grievous":—

Grievous
hurt.

First—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfigurement of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life or which causes the sufferer to be, during the space of twenty days, in severe bodily pain, or unable to follow his ordinary pursuits.

321. Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt."

Voluntarily
causing hurt.

322. Whoever

¹ Into by a
Frontier
tion, 1901

(Chapter XVI.—Of Offences affecting the Human Body.)

Voluntarily
causing
grievous
hurt to
extort
property or
to constrain
to an illegal
act

329. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything that is illegal or which may facilitate the commission of an offence, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily
causing hurt
to extort con-
fession, or to
compel re-
stitution of
property.

330. Whoever voluntarily causes hurt, for the purpose of extorting from the sufferer or any person interested in the sufferer any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Illustrations.

(a) A, a police-officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this section.

(b) A, a police-officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this section.

(c) A, a revenue-officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this section.

(d) A, a zamindar, tortures a raiyat in order to compel him to pay his rent. A is guilty of an offence under this section.

Voluntarily
causing
grievous

331. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or any person

(Chapter XVI.—Of Offences affecting the Human Body)

person interested in the sufferer any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

332. Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

333. Whoever voluntarily
any person being a public ser
of his duty as such public ser
prevent or deter that person or any other public
servant from discharging his duty as such public
servant, or in consequence of anything done or
attempted to be done by that person in the lawful
discharge of his duty as such public servant, shall
be punished with imprisonment of either description
for a term which may extend to ten years, and shall
also be liable to fine.

334. Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description

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for a term which may extend to one month, or with fine which may extend to five hundred rupees or with both.

Voluntarily
causing
grievous
hurt on
provocation

335. Whoever [voluntarily] causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to two thousand rupees, or with both.

Explanation—The last two sections are subject to the same provisos as Exception 1, section 300.

Act endan-
gering life or
personal
safety of
others

336. Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

Causing
hurt by act
endangering
life or
personal
safety of
others.

337. Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Causing
grievous hurt
by act endan-
gering life or
personal
safety of
others

338. Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Of Wrongful Restraint and Wrongful Confinement.

Wrongful
restraint

339. Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction

¹ The word "voluntarily" was inserted by the Indian Penal Code Amendment Act, 1892 (8 of 1892), s. 8, Genl. Acts, Vol. III.

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direction in which that person has a right to proceed, is said wrongfully to restrain that person

Exception—The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section

Illustration

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path Z is thereby prevented from passing A wrongfully restrains Z

340. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said “wrongfully to confine” that person Wrongful confinement

Illustrations

(a) A causes Z to go within a walled space, and locks Z in Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall A wrongfully confines Z

(b) A places men with firearms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building A wrongfully confines Z

341. Whoever wrongfully restrains any person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both Punishment for wrongful restraint

342. Whoever wrongfully confines any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both Punishment for wrongful confinement

343. Whoever wrongfully confines any person for three days, or more, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both Wrongful confinement for three or more days.

344. Whoever

[ACT XLV]

Indian Penal Code
(Chapter XVI—Of Offences affecting the Human Body)

Wrongful
confinement
for ten or
more days

344. Whoever wrongfully confines any person for ten days, or more, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine

Wrongful
confinement
of person
for whose
liberation
writ has been
issued

345. Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any term of imprisonment to which he may be liable under any other section of this Chapter

Wrongful
confinement
in secret

346. Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any other punishment to which he may be liable for such wrongful confinement

Wrongful
confinement
to extort
property or
constrain
to illegal
act

347. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security, or of constraining the person confined or any person interested in such person to do anything illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine

Wrongful
confinement
to extort
confession
or compel
restoration of
property

348. Whoever wrongfully confines any person for the purpose of extorting from the person confined or any person interested in the person confined any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose

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purpose of constraining the person confined or any person interested in the person confined to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine

Of Criminal Force and Assault

349. A person is said to use force to another if he ^{Force} causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling. Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described

First—By his own bodily power

Secondly—By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person

Thirdly—By inducing any animal to move, to change its motion, or to cease to move

350. Whoever intentionally uses force to any ^{Criminal} person, without that person's consent, in order to the ^{force} committing

¹ As to punishment for an offence under s. 354 enquired into by a Council of Elders in a Punjab Frontier District, in the North West Frontier Province or in Baluchistan, see the Punjab Frontier Crimes Regulation, 1901 (3 of 1901) s. 1*, Punjab & N. W. Code

(Chapter XVI—Of Offences affecting the Human Body)

committing of any offence, or intending or knowing it to be likely that by the use of such force to cause, or that by the use of such force he will cause, injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Illustrations

(a) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear or annoyance to Z, A has used criminal force to Z.

(b) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z, and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, A has used criminal force to Z.

(c) Z is riding in a palanquin. A, intending to rob Z, seizes the pole, and stops the palanquin. Here, A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z, and as A has acted thus intentionally, without Z's consent, in order to the commission of an offence, A has used criminal force to Z.

(d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z, and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, he has used criminal force to Z.

(e) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will

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cause Z to believe that he is about to cause the dog to attack Z A has committed an assault upon Z

(c) A takes up a stick, saying to Z, "I will give you a beating" Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault

Punishment
for assault or
criminal
force other
wise than on
grave
provocation

352 Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both

Explanation—Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or

if the provocation is given by anything done in obedience to the law, or by a public servant, in the lawful exercise of the powers of such public servant, or

if the provocation is given by anything done in the lawful exercise of the right of private defence

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact

Assault or
criminal
force to deter
public
servant from
discharge of
his duty

353. Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of
be done by such person
is duty as such public
with imprisonment of

either description for a term which may extend to two years, or with fine, or with both

Assault or
criminal
force to

354. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely

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likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

woman with
intent to
outrage
her modesty

355. Whoever assaults or uses criminal force to any person, intending thereby to dishonour that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Assault or
criminal
force with
intent to
dishonour
person
otherwise
than on
grave provo-
cation

356. Whoever assaults or uses criminal force to any person, in attempting to commit theft on any property which that person is then wearing or carrying, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Assault or
criminal
force in
attempt to
commit theft
of property
carried by a
person

357. Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both

Assault or
criminal
force in
attempt
wrongfully
to confine a
person

358. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both

Assault or
criminal
force on
grave
Provocation

Explanation—The last section is subject to the same explanation as section 352

Of Kidnapping, Abduction, Slavery and Forced Labour

359. Kidnapping is of two kinds kidnapping from British India, and kidnapping from lawful guardianship

Kidnapping

360. Whoever

Indian Penal Code [ACT XLV
(Chapter XVI—Of Offences affecting the Human
Body)]

cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(c) A takes up a stick, saying to Z, "I will give you a beating." Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

Punishment
for assault or
criminal
force other
wise than on
grave
provocation

352. Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Explanation—Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or

if the provocation is given by anything done in obedience to the law, or by a public servant, in the lawful exercise of the powers of such public servant, or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

353. Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

354. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely

Assault or
criminal
force to deter
public
servant from
discharge of
his duty

Assault or
criminal
force to

(Chapter XVI.—Of Offences affecting the Human Body)

likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

woman with intent to outrage her modesty

355. Whoever assaults or uses criminal force to any person, intending thereby to dishonour that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Assault or criminal force with intent to dishonour person otherwise than on grave provocation

356. Whoever assaults or uses criminal force to any person, in attempting to commit theft on any property which that person is then wearing or carrying, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Assault or criminal force in attempt to commit theft of property carried by a person

357. Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both

Assault or criminal force in attempt wrongfully to confine a person

358. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both

Assault or criminal force on grave provocation

Explanation—The last section is subject to the same explanation as section 352

Of Kidnapping, Abduction, Slavery and Forced Labour¹

359. Kidnapping is of two kinds: kidnapping from British India, and kidnapping from lawful guardianship

Kidnapping.

360. Whoever

¹ As to punishment for offences
Council of
Provinces
(3 of 1901)

Indian Penal Code [ACT XLV
(Chapter XVI—Of Offences affecting the Human
Body)]

Kidnapping
from British
India

360 Whoever conveys any person beyond the limits of British India without the consent of that person, or of some person legally authorized to consent on behalf of that person, is said to kidnap that person from British India

Kidnapping
from lawful
guardian-
ship

361. Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship

Explanation—The words 'lawful guardian' in this section include any person lawfully entrusted with the care or custody of such minor or other person

Exception—This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose

Abduction

362. Whoever by force compels, or by any deceitful means induces, any person to go from any place is said to abduct that person

Punishment
for kidnapping

363. Whoever kidnaps any person from British India or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

Kidnapping
or abducting
in order to
murder

364 Whoever kidnaps or abducts any person in order that such person may be murdered or may be so disposed of as to be put in danger of being murdered, shall be punished with transportation for life

or

(Chapter XVI.—Of Offences affecting the Human Body.)

or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations.

(a) A kidnaps Z from British India, intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this section.

(b) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this section.

365. Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting with intent secretly and wrongfully to confine person

366. Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Kidnapping or abducting woman to compel her marriage, etc

367. Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected, to grievous hurt, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.

368. Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the

Wrongfully concealing or keeping in confinement

(Chapter XVI.—Of Offences affecting the Human Body.)

kidnapped
or abducted
person.

same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement.

Kidnapping
or abducting
child under
ten years
with intent
to steal
from its
person.

369. Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any moveable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Buying or
disposing of
any person
as a slave.

370. Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Habitual
dealing in
slaves

371. Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves shall be punished with transportation for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Selling
minor for
purposes of
prostitution,
etc.

372. Whoever sells, lets to hire, or otherwise disposes of any minor under the age of sixteen years with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Buying
minor for
purposes
of prostitu-
tion, etc

373. Whoever buys, hires or otherwise obtains possession of any minor under the age of sixteen years with intent that such minor shall be employed or used for the purpose of prostitution, or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any

(Chapter XVI—Of Offences affecting the Human Body)

any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

374. Whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both ^{Unlawful compulsory labour}

Of Rape.¹

375. A man is said to commit "rape," who, ^{Rape} except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions:—

First—Against her will.

Secondly—Without her consent.

Thirdly—With her consent, when her consent has been obtained by putting her in fear of death, or of hurt.

Fourthly—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly—With or without her consent, when she is under ²[twelve] years of age

Explanation—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception—Sexual intercourse by a man with his own wife, the wife not being under ²[twelve] years of age, is not rape

376. Whoever

¹As to punishment where an offence is enquired into by a Council of Elders in a Punjab Frontier District, in the North West Frontier Province or in Baluchistan, see the Punjab Frontier Crimes Regulation, 1901 (3 of 1901), s. 12, Punjab & N.W. Code

²The word "twelve" was substituted for "ten" by the Indian Criminal Law Amendment Act, 1891 (10 of 1891), s. 1, Genl. Act, Vol. IV.

(Chapter XVI—Of Offences affecting the Human Body. Chapter XVII—Of Offences against Property.)

Punishment
for rape

376. Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Of Unnatural Offences¹

Unnatural
offences.

377. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Explanation—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section

CHAPTER XVII.

OF OFFENCES AGAINST PROPERTY

Of Theft²

Theft

378. Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft

Explanation 1—

¹ As to punishment where an offence is enquired into by a Council of Elders in a Punjab Frontier District, in the North West Frontier Province or in Baluchistan, see the Punjab Frontier Crimes Regulation, 1901 (3 of 1901).

into by a
Frontier
Regula

(Chapter XVII—Of Offences against Property)

Explanation 1—A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft, but it becomes capable of being the subject of theft as soon as it is severed from the earth

Explanation 2—A moving effected by the same act which effects the severance may be a theft

Explanation 3—A person is said to cause a thing to move by removing an obstacle which prevented it from moving or by separating it from any other thing, as well as by actually moving it

Explanation 4—A person, who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal

Explanation 5—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied

Illustrations

(a) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here, as soon as A has severed the tree in order to such taking, he has committed theft

(b) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A

(c) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure

(d) A being Z's servant and entrusted by Z with the care of Z's plate dishonestly runs away with the plate without Z's consent. A has committed theft

(e) Z,

161

(Chapter XVII.—Of Offences against Property.)

(c) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(f) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(g) A finds a ring lying on the high-road, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.

(h) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(i) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(j) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(l) Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.

(l) A takes an article belonging to Z out of Z's possession without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.

(m) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent for the purpose merely of reading it, and with the intention of returning it. Here, it is probable

that

(Chapter XVII.—Of Offences against Property.)

that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(n) A asks charity from Z's wife. She gives A money, food and clothes, which A knows to belong to Z her husband. Here it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.

(o) A is the paramour of Z's wife. She gives A valuable property, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(p) A, in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

379. Whoever commits theft shall be punished Punishment for theft. with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

380. Whoever commits theft in any building, Theft in dwelling-house, etc. tent or vessel, which building, tent or vessel is used as a human dwelling, or used for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

381. Whoever being a clerk or servant, or being Theft by clerk or servant of property in possession of master. employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

382. Whoever commits theft, having made pre-Theft after preparation made for causing death, hurt or restraint, in order to the committing of the theft. preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished

with

163

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with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine

Illustrations.

(a) A commits theft on property in Z's possession, and, while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting Z in case Z should resist. A has committed the offence defined in this section.

(b) A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this section.

Of Extortion

Extortion

383. Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security or anything signed or sealed which may be converted into a valuable security, commits "extortion."

Illustrations

(a) A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(b) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain money to A. Z signs and delivers the note. A has committed extortion.

(c) A threatens to send club men to plough up Z's field unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

384. Whoever

(Chapter XVII—Of Offences against Property)

384. Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both Punishment for extortion

385. Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both Putting person in fear of injury in order to commit extortion

386. Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine Extortion by putting a person in fear of death or grievous hurt

387. Whoever, in order to the committing of extortion puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine Putting person in fear of death or of grievous hurt in order to commit extortion

388. Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed or attempted to commit any offence punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, and, if the offence be one punishable under section 377 of this Code, may be punished with transportation for life Extortion by threat of accusation of an offence punishable with death or transportation etc

389. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person Putting person in fear of accusation

(Chapter XVII.—Of Offences against Property.)

order to
commit
extortion

of having committed, or attempted to commit an offence punishable with death or with transportation for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be punishable under section 377 of this Code, may be punished with transportation for life.

Of Robbery and Dacoity.¹

Robbery

390. In all robbery there is either theft or extortion.

When theft
is robbery

Theft is "robbery" if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint

When
extortion is
robbery.

Extortion is "robbery" if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person, or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations

¹As to punishment for offences under ss 392--399 enquired into by a Council of Elders in a Punjab Frontier District, in the North West Frontier Province or in Baluchistan, see s 12 of the Punjab Frontier Crimes Regulation, 1901 (3 of 1901), Punj. & N. W. Code

(Chapter XVII—Of Offences against Property)

Illustrations

(a) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(b) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(c) A meets Z and Z's child on the high road. A takes the child, and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(d) A obtains property from Z by saying—"Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees." This is extortion, and punishable as such; but it is not robbery, unless Z is put in fear of the instant death of his child.

391. When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit "dacoity."

392. Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine, and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years. Punishment for robbery

393. Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine. Attempt to commit robbery

394. If

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order to
commit
extortion

of having committed, or attempted to commit an offence punishable with death or with transportation for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be punishable under section 377 of this Code, may be punished with transportation for life.

*Of Robbery and Dacoity.*¹

Robbery.

390. In all robbery there is either theft or extortion.

When theft
is robbery

Theft is "robbery" if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint.

When
extortion is
robbery.

Extortion is "robbery" if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person, or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations.

(Chapter XVII—Of Offences against Property)

Illustrations

(a) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

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(d) A obtains property from Z by saying—"Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees." This is extortion, and punishable as such; but it is not robbery, unless Z is put in fear of the instant death of his child.

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393. Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

394. If

(Chapter XVII—Of Offences against Property)

Voluntarily
causing hurt
in commit-
ting robbery

394. If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine

Punishment
for dacoity

395. Whoever commits dacoity shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine

Dacoity
with murder

396. If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or transportation for life, or rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine

Robbery, or
dacoity, with
attempt to
cause death
or grievous
hurt

397. If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years

Attempt to
commit
robbery or
dacoity when
armed with
deadly
weapon

398. If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years

Making
preparation
to commit
dacoity

399. Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine

Punishment
for belonging
to gang of
dacoits

400. Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine

401. Whoever

(Chapter XVII—Of Offences against Property)

401. Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of thugs or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine

402. Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine

Of Criminal Misappropriation of Property

403. Whoever dishonestly misappropriates or converts to his own use any moveable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Illustrations

(a) A takes property belonging to Z out of Z's possession in good faith, believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft, but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section

(b) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But, if A afterwards sells the book for his own benefit, he is guilty of an offence under this section

(c) A and B being joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But, if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this section

Explanation 1

(Chapter XVII—Of Offences against Property)

Explanation 1—A dishonest misappropriation for a time only is a misappropriation within the meaning of this section

Illustration

A finds a Government promissory note belonging to Z, bearing a blank endorsement A, knowing that the note belongs to Z, pledges it with a banker as a security for a loan, intending at a future time to restore it to Z A has committed an offence under this section

Explanation 2—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not appropriate it dishonestly, and is not guilty of the offence

but he is guilty of the offence if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner and has kept the property a reasonable time to enable the owner to claim it

What are reasonable means or what is a reasonable time in such a case, is a question of fact

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believes that the real owner cannot be found

Illustrations

(a) A finds a rupee on the high road, not knowing to whom the rupee belongs A picks up the rupee Here A has not committed the offence defined in this section

(b) A finds a letter on the road, containing a bank note From the direction and contents of the letter he learns to whom the note belongs He appropriates the note He is guilty of an offence under this section

(c) A finds a cheque payable to bearer He can form no conjecture as to the person who has lost the cheque But

the

(Chapter XVII—Of Offences against Property)

the name of the person, who has drawn the cheque, appears A knows that this person can direct him to the person in whose favour the cheque was drawn A appropriates the cheque without attempting to discover the owner He is guilty of an offence under this section

(d) A sees Z drop his purse with money in it A picks up the purse with the intention of restoring it to Z but afterwards appropriates it to his own use A has committed an offence under this section

(e) A finds a purse with money, not knowing to whom it belongs, he afterwards discovers that it belongs to Z, and appropriates it to his own use A is guilty of an offence under this section

(f) A finds a valuable ring, not knowing to whom it belongs A sells it immediately without attempting to discover the owner A is guilty of an offence under this section

404. Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and, if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years

Dishonest misappropriation of property possessed by deceased person at the time of his death

Illustration

Z dies in possession of furniture and money His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it A has committed the offence defined in this section

Of Criminal Breach of Trust

405. Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly—
 ———
 use that
 that pro,

Criminal breach of trust
 ———
 rts to his own
 or disposes of
 rection of law
 prescribing

(Chapter XVII.—Of Offences against Property.)

breach of trust has been committed, is designated as "stolen property", ¹[whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without British India] But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property

Dishonestly
receiving
stolen
property

411. Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

Dishonestly
receiving
property
stolen in the
commission
of a dacoity

412. Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person, whom he knows or has reason to believe to belong or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Habitually
dealing in
stolen
property.

413. Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Assisting in
concealment
of stolen
property

414. Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

Of

¹ These words were inserted by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 9, Genl. Acts, Vol. III.

(Chapter XVII—Of Offences against Property)

Of Cheating

415 Whoever, by deceiving any person, fraudu^{Cheating} lently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived and which act or omission causes or is likely to cause damage or harm to that person in body mind reputation or property, is said to "cheat"

Explanation—A dishonest concealment of facts is a deception within the meaning of this section

Illustrations

(a) A, by falsely pretending to be in the Civil Service, intentionally deceives Z and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay A cheats

(b) A by putting a counterfeit mark on an article intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article A cheats

(c) A by exhibiting to Z a false sample of an article intentionally deceives Z into believing that the article corresponds with the sample and thereby dishonestly induces Z to buy and pay for the article A cheats

(d) A by tendering in payment for an article a bill on a house with which A keeps no money and by which A expects that the bill will be dishonoured intentionally deceives Z and thereby dishonestly induces Z to deliver the article intending not to pay for it A cheats

(e) A by pledging as diamonds articles which he knows are not diamonds intentionally deceives Z and thereby dishonestly induces Z to lend money A cheats

(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money A not intending to repay it A cheats

(g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to

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Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(i) A sells and conveys an estate to B. A, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

Cheating
by personation.

416. A person is said to "cheat by personation" if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation.—The offence is committed whether the individual personated is a real or imaginary person.

Illustrations.

(a) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.

(b) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

Punishment
for cheating.

417. Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Cheating
with
knowledge
that wrongful loss may
ensue to
person whose
interest
offender is
bound to
protect

418. Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment
for cheating
by personation

419. Whoever cheats by personation shall be punished with imprisonment of either description for

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for a term which may extend to three years, or with fine, or with both

420 Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine

Cheating and dishonestly inducing delivery of property

Of Fraudulent Deeds and Dispositions of Property

421. Whoever dishonestly or fraudulently removes, conceals or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both

Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors

422 Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made to law for payment of his debts, or other person, shall be punished of either description for a term which may extend to two years, or with fine, or with both

Dishonestly or fraudulently

423. Whoever dishonestly or fraudulently signs executes or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge or relating to the person or persons for whose use or benefit it is

Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.

really

(Chapter XVII.—Of Offences against Property)

really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest
or fraudulent
removal or
concealment
of prop-
erty.

424. Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both.

*Of Mischief.*¹

Mischief

425. Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits "mischief."

Explanation 1—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation 2—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly

Illustrations.

(a) A voluntarily burns a valuable security belonging to Z intending to cause wrongful loss to Z. A has committed mischief.

(b) A

1. A.
2. A.
3. A.
4. A.
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97. A.
98. A.
99. A.
100. A.

quired
West
times

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(b) A introduces water into an ice-house belonging to Z, and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.

(c) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.

(d) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.

(e) A having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.

(f) A causes a ship to be cast away, intending thereby to cause damage to Z who has lent money on bottomry on the ship. A has committed mischief.

(g) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.

(h) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief.

426. Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both. Punishment for mischief.

427. Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Mischief causing damage to the amount of fifty rupees.

428. Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Mischief by killing or maiming animal of the value of ten rupees.

429. Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, cattle, etc., Mischief by killing or maiming cattle, etc.,

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of any value
or any
animal of
the value
of fifty
rupees

camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief
by injury
to works of
irrigation
or by
wrongfully
diverting
water

430. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both

Mischief by
injury to
public road,
bridge, river
or channel

431. Whoever commits mischief by doing any act which renders or which he knows to be likely to render any public road, bridge, navigable river, or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both

Mischief by
causing in-
undation or
obstruction
to public
drainage at-
tended with
damage

432. Whoever commits mischief by doing any act which causes or which he knows to be likely to cause an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by
destroying,
moving or
rendering
less useful a
light house
or sea
mark

433. Whoever commits mischief by destroying or moving any light-house or other light used as a sea-mark, or any sea-mark or buoy or other thing placed as a guide for navigators, or by any act which renders any such light-house, sea-mark, buoy or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of

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of either description for a term which may extend to seven years, or with fine, or with both.

434. Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act, which renders a land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

435. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards [or (where the property is agricultural produce) ten rupees or upwards], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

436. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

437. Whoever commits mischief to any vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe, that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

438. Whoever commits, or attempts to commit, by fire or any explosive substance, such mischief as is described

¹These words were inserted by the Indian Penal Code Amendment Act, 1882 (3 of 1882), s. 10, Genl. Acts, Vol. III.

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in section
437 commit-
ted by fire or
explosive
substance.

is described in the last preceding section, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment
for inten-
tionally
running
vessel
aground or
ashore with
intent to
commit
theft, etc.

439. Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief
committed
after pre-
paration
made for
causing
death or
hurt]

440. Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine

Of Criminal Trespass.¹

Criminal
trespass

441. Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property,

or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence,

is said to commit "criminal trespass."

House
trespass.

442. Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling, or any building used

¹ As to punishment for offences under ss. 448-460, enquired into by a Council of Elders in a Punjab Frontier District, in the North-West Frontier Province or in Baluchistan, see the Punjab Frontier Crimes Regulation, 1901 (3 of 1901), s. 12, Punj & N.W. Code

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used as a place for worship, or as a place for the custody of property, is said to commit "house trespass"

Explanation—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house trespass

443. Whoever commits house trespass having taken precautions to conceal such house trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit "lurking house trespass" Lurking house trespass

444. Whoever commits lurking house trespass after sunset and before sunrise, is said to commit 'lurking house trespass by night' Lurking house trespass by night

445. A person is said to commit "house breaking" who commits house trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described, or if, being in the house or any part of it for the purpose of committing an offence, or, having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say — House-breaking

First—If he enters or quits through a passage made by himself, or by any abettor of the house trespass, in order to the committing of the house trespass

Secondly—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance, or through any passage to which he has obtained access by scaling or climbing over any wall or building

Thirdly—If he enters or quits through any passage which he or any abettor of the house trespass

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house trespass has opened, in order to the committing of the house trespass by any means by which that passage was not intended by the occupier of the house to be opened

Fourthly—If he enters or quits by opening any lock in order to the committing of the house trespass, or in order to the quitting of the house after a house trespass

Fifthly—If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault

Sixthly—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house trespass

Explanation—Any out house, or building occupied with a house and between which and such house there is an immediate internal communication is part of the house within the meaning of this section

Illustrations

(a) A commits house trespass by making a hole through the wall of Z's house, and putting his hand through the aperture This is house breaking

(b) A commits house trespass by creeping into a ship at a port hole between decks This is house breaking

(c) A commits house trespass by entering Z's house through a window This is house breaking

(d) A commits house trespass by entering Z's house through the door, having opened a door which was fastened This is house breaking

(e) A commits house trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door This is house breaking

(f) A

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' (f) A finds the key of Z's house door, which Z had lost, and commits house trespass by entering Z's house having opened the door with that key This is house breaking

(g) Z is standing in his doorway A forces a passage by knocking Z down, and commits house trespass by entering the house This is house breaking

(h) Z, the doorkeeper of Y, is standing in Y's doorway A commits house trespass by entering the house having deterred Z from opposing him by threatening to beat him This is house breaking

446 Whoever commits house breaking after sun set and before sunrise, is said to commit house breaking by night ' House breaking by night

447. Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both Punishment for criminal trespass

448 Whoever commits house trespass shall be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both Punishment for house trespass

449. Whoever commits house trespass in order to the committing of any offence punishable with death, shall be punished with transportation for life, or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine House trespass in order to commit offence punishable with death

450. Whoever commits house trespass in order to the committing of any offence punishable with transportation for life, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine House trespass in order to commit offence punishable with transportation for life

451. Whoever commits house trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to House trespass in order to commit offence punishable with imprisonment.

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two years, and shall also be liable to fine, and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years

House tres-
pass after
preparation
for hurt
assault or
wrongful
restraint

452. Whoever commits house trespass, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

Punishment
for lurking
house tres-
pass or
house break-
ing

453. Whoever commits lurking house trespass or house breaking, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine

Lurking
house tres-
pass or
house break-
ing in order
to commit
offence
punishable
with impris-
onment

454. Whoever commits lurking house trespass or house breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years

Lurking
house tres-
pass or
house break-
ing after pre-
paration
for hurt
assault or
wrongful
restraint

455. Whoever commits lurking house trespass, or house breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Punishment
for lurking
house tres-
pass or
house break-
ing by night

456. Whoever commits lurking house trespass by night, or house breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine

457. Whoever

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457. Whoever commits lurking house trespass by night, or house breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine, and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years

458. Whoever commits lurking house trespass by night, or house breaking by night, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine

459. Whoever, whilst committing lurking house-trespass or house breaking, causes grievous hurt to any person or attempts to cause death or grievous hurt to any person, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

460. If, at the time of the committing of lurking house trespass by night or house breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house trespass by night or house breaking by night, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

461. Whoever dishonestly or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property

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contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment
for same
offence when
committed
by person
entrusted
with cus-
tody

462. Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XVIII.

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS

Forgery

463. Whoever makes any false document or part of a document, with intent to cause damage or injury to the public or to any person, or to cause any loss or to enter into any contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

Making a
false docu-
ment

464. A person is said to make a false document—

First—Who dishonestly or fraudulently makes, signs, seals or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed or executed by or by the authority of a person by whom or by whose authority

he

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he knows that it was not made, signed, sealed or executed, or at a time at which he knows that it was not made, signed, sealed or executed; or

Secondly.—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly—Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or the nature of the alteration

Illustrations

(a) A has a letter of credit upon B for rupees 10,000, written by Z. A, in order to defraud B, adds a cipher to the 10,000, and makes the sum 1,00,000, intending that it may be believed by B that Z so wrote the letter. A has committed forgery

(b) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B, and thereby of obtaining from B the purchase-money. A has committed forgery.

(c) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery.

(d) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain

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payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.

(c) A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill, A is guilty of forgery.

(f) Z's will contains these words—"I direct that all my remaining property be equally divided between A, B and C." A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(g) A endorses a Government promissory note and makes it payable to Z or his order by writing on the bill the words "Pay to Z or his order" and signing the endorsement. B dishonestly erases the words "pay to Z or his order," and thereby converts the special endorsement into a blank endorsement. B commits forgery.

(h) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

(i) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.

(j) A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property, A has committed forgery.

(k) A without B's authority writes a letter and signs it in B's name certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery, inasmuch as he intended to deceive Z by the forged certificate

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ficate, and thereby to induce Z to enter into an express or implied contract for service.

Explanation 1.—A man's signature of his own name may amount to forgery.

Illustrations.

(a) A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.

(b) A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiate the bill as though it had been accepted by Z. A is guilty of forgery; and if B, knowing the fact, draws the bill upon the paper pursuant to A's intention, B is also guilty of forgery.

(c) A picks up a bill of exchange payable to the order of a different person of the same name. A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable: here A has committed forgery.

(d) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, executes a lease of the estate to Z at a nominal rent and for a long period, and dates the lease six months prior to the seizure, with intent to defraud A, and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.

(e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors; and in order to give a colour to the transaction, writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation 2.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person

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person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

Illustration.

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

Punishment
for forgery

465. Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Forgery of
record of
Court or of
public re-
gister, etc

466. Whoever forges a document, purporting to be a record or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery of
valuable
security,
will, etc

467. Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, moveable property or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any moveable property or valuable security, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Forgery for
purpose of
cheating

468. Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating

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cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

469. Whoever commits forgery, intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Forgery for purpose of harming reputation.

470. A false document made wholly or in part by forgery is designated "a forged document."

Forged document.

471. Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document.

Using as genuine a forged document.

472. Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 467 of this Code, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 467.

473. Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this chapter other than section 467, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which

Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.

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may extend to seven years, and shall also be liable to fine.

Having possession of document described in section 466 or 467, knowing it to be forged and intending to use it as genuine.

474. Whoever has in his possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in section 466 of this Code, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and, if the document is one of the description mentioned in section 467, shall be punished with transportation for life, or with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.

475. Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who, with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting device or mark used for authenticating documents other than those described in section 467, or possessing

476. Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document other than the documents described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged

or

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or thereafter to be forged on such material, or who, with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

counterfeited
marked
material.

477. Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys or defaces, or attempts to cancel, destroy or deface, or secretes or attempts to secrete any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulent
cancellation,
destruction,
etc., of will,
authority to
adopt, or
valuable
security

477A. Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in, any such book, paper, writing, valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Falsification
of accounts.

Explanation.—It shall be sufficient in any charge under this section to allege a general intent to defraud

¹ S. 477A was added by the Criminal Law Amendment Act, 1895 (3 of 1895), s. 4, Genl. Acts, Vol. IV.

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defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed.

Of Trade, Property and Other Marks.¹

Trade mark.

478. A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark,

and for the purposes of this Code the expression "trade mark" includes any trade mark which is registered in the register of trade marks kept under the Patents, Designs and Trade Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or Foreign State to which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Act, 1883, are, under Order in Council, for the time being applicable.

Property mark.

479. A mark used for denoting that moveable property belongs to a particular person is called a property mark.

Using a false trade mark.

480. Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

Using a false property mark.

481. Whoever marks any moveable property or goods or any case, package or other receptacle containing

¹ See 478 to 483 were substituted for the original sections by the Indian Merchandise Marks Act, 1889 (4 of 1889), s. 3, Genl. Acta, Vol. IV.

(Chapter XVIII—Of Offences relating to Documents and to Trade or Property Marks)

containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark

482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both

Punishment
for using a
false trade
mark or pro-
perty mark

483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Counterfeit-
ing a trade
mark or
property
mark used by
another

484. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine

Counterfeit-
ing a mark
used by a
public ser-
vant

485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that

Making
or possession
of any in-
strument for
counterfeit-
ing a trade
mark or pro-
perty mark.

they

(Chapter XVIII.—Of Offences relating to Documents and to Trade or Property Marks.)

they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Selling goods
marked with
a counter-
feit trade
mark or pro-
perty mark

486. Whoever sells, or exposes, or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(c) that otherwise he had acted innocently, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making a
false mark
upon any
receptacle
containing
goods.

487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description

for

(Chapter XVIII—Of Offences relating to Documents and to Trade or Property Marks)

for a term which may extend to three years, or with fine, or with both

488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section

Punishment for making use of any such false mark

489. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both

Tampering with property mark with intent to cause injury

Of Currency-Notes and Bank Notes

489A. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting any currency note or bank note, with transportation for life, or of either description for a term which may extend to ten years, and shall also be liable to fine

Counterfeiting currency

Explanation—For the purposes of this section and of sections 489B, 489C and 489D, the expression "bank-note" means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for, money

489B. Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency note or bank-note, knowing or having reason to believe the same to be genuine, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Using as genuine forged or counterfeit currency notes or bank notes

(Chapter XVIII.—Of Offences relating to Documents and to Trade or Property Marks)

they belong to a person to whom they do not belong shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

Selling goods
marked with
a counter-
feit trade
mark or pro-
perty mark

486. Whoever sells, or exposes, or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he prove—

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(c) that otherwise he had acted innocently, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both

Making a
false mark
upon any
receptacle
containing
goods

487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description

for

(Chapter XVIII—Of Offences relating to Documents and to Trade or Property Marks)

for a term which may extend to three years, or with fine, or with both

488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section

Punishment for making use of any such false mark

489. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both

Tampering with property mark with intent to cause injury

Of Currency-Notes and Bank Notes

489A. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency note or bank note, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Counterfeiting currency notes or bank notes

Explanation—For the purposes of this section and of sections 489B, 489C and 489D, the expression 'bank note' means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for, money

489B. Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency note or bank note, knowing or having reason to believe the same

Using as genuine forged or counterfeit currency notes or bank notes

(Chapter XII —Of the Criminal Breach of Contracts of Service Chapter XX —Of Offences relating to Marriage)

attend on
an i supply
wants of
helpless
person

who, by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both

Breach of
contract to
serve at
distant place
to which
servant is
conveyed
at master's
expense"

492 Whoever, being bound by lawful contract in writing to work for another person as an artificer, workman or labourer, for a period not more than three years, at any place within British India to which by virtue of the contract he has been or is to be conveyed at the expense of such other, voluntarily deserts the service of that other during the continuance of his contract, or without reasonable cause refuses to perform the service which he has contracted to perform, such service being reasonable and proper service, shall be punished with imprisonment of either description for a term not exceeding one month, or with fine not exceeding double the amount of such expense, or with both, unless the employer has ill treated him or neglected to perform the contract on his part

CHAPTER XX

OF OFFENCES RELATING TO MARRIAGE

Cohabitation
caused by a
man deceit-
fully induc-
ing a belief

493 Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual

498 enquired into by a
North West Frontier
Regulation 1901

(Chapter XX —Of Offences relating to Marriage)

sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine of lawful marriage

494 Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine Marrying again during life of husband or wife

Exception —This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction,

nor to any person who contracts a marriage during the life of a former husband or wife if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time, provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge

495 Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine Same offence with concealment of former marriage from person with whom subsequent marriage is contracted

496 Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine Marriage ceremony fraudulently gone through without lawful marriage

497. Whoever

(Chapter XX —Of Offences relating to Marriage
Chapter XXI—Of Defamation)

Adultery

497. Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife¹ shall not be punishable as an abettor.

Enticing or
taking away
or detaining
with or ma-
nifest intent a
married
woman

498. Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CHAPTER XXI

OF DEFAMATION

Defamation

499. Whoever makes or publishes any imputation concerning the character, credit, or reputation of any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living,

¹In the Punjab Frontier District in the North West Frontier Province and Baluchistan a married woman is punishable for adultery—see the Punjab Frontier Crimes Regulation 1901 (3 of 1901) ss 12 and 30 Punj & N W Code

(Chapter XXI—Of Defamation)

living, and is intended to be hurtful to the feelings of his family or other near relatives

Explanation 2—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such

Explanation 3—An imputation in the form of an alternative or expressed ironically, may amount to defamation

Explanation 4—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful

Illustrations

(a) A says—"Z is an honest man he never stole B's watch" intending to cause it to be believed that Z did steal B's watch This is defamation, unless it fall within one of the exceptions

(b) A is asked who stole B's watch A points to Z, intending to cause it to be believed that Z stole B's watch This is defamation, unless it fall within one of the exceptions

(c) A draws a picture of Z running away with B's watch intending it to be believed that Z stole B's watch This is defamation, unless it fall within one of the exceptions

First Exception—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published Whether or not it is for the public good is a question of fact

Imputation of truth which public good requires to be made or published.

Second Exception—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of

Public conduct of public servant

[ACT XLV
Indian Penal Code
(Chapter XXI—Of Defamation)]

of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

(on conduct of
any person
touching
any public
question)

Third Exception—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further

Illustration

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested

Publication
of reports of
proceedings
of Courts

Fourth Exception—It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings

Explanation—A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section

Merits of
case decided
in Court or
conduct of
witnesses
and others
concerned

Fifth Exception—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further

Illustrations

(a) A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest" A is within this exception if he says this in good faith, in as much as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no further

(Chapter XXI—Of Defamation)

(b) But if A says—‘ I do not believe what Z asserted at that trial because I know him to be a man without veracity,’ A is not within this exception, inasmuch as the opinion which he expresses of Z’s character, is an opinion not founded on Z’s conduct as a witness

Sixth Exception—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public or respecting the character of the author so far as his character appears in such performance and no further

Merits of
public per-
formance

Explanation—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public

Illustrations

(a) A person who publishes a book submits that book to the judgment of the public

(b) A person who makes a speech in public, submits that speech to the judgment of the public

(c) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public

(d) A says of a book published by Z—“ Z’s book is foolish, Z must be a weak man Z’s book is indecent, Z must be a man of impure mind ” A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z’s character only so far as it appears in Z’s book, and no further

(e) But if A says—“ I am not surprised that Z’s book is foolish and indecent, for he is a weak man and a libertine,” A is not within this exception inasmuch as the opinion which he expresses of Z’s character is an opinion not founded on Z’s book

Seventh Exception—It is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates

Censure
passed in
good faith
by person
having law-
ful authority
over another

Illustration

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court, a head of a department censuring

[ACT XLV]

Indian Penal Code
(Chapter XXI—Of Defamation)

censuring in good faith those who are under his orders, a parent censuring in good faith a child in the presence of other children, a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils, a master censuring a servant in good faith for remissness in service, a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier—are within this exception

Accusation
referred in
good faith to
authorized
person

Eighth Exception—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of accusation

Illustration

If A in good faith accuses Z before a Magistrate, if A in good faith complains of the conduct of Z, a servant, to Z's master, if A in good faith complains of the conduct of Z a child, to Z's father—is within this exception

Imputation
made in
good faith
by person for
protection of
his or other's
interests

Ninth Exception—It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interest of the person making it, or of any other person or for the public good

Illustrations

(a) A, a shopkeeper, says to B, who manages his business—"Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty." A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests

(b) A, a Magistrate in making a report to his superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good A is within the exception

Caution in-
tended for
good of per-
son to whom
conveyed or
for public
good

Tenth Exception—It is not defamation to convey a caution in good faith, to one person against another provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good

(Chapter XXI—Of Defamation Chapter XXII—
Of Criminal Intimidation, Insult and Annoyance)

500. Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both

Punishment
for defama-
tion

501. Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both

Printing or
engraving
matter
known to be
defamatory

502. Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both

Sale of
printed or
engraved
substance
containing
defamatory
matter

CHAPTER XXII

OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

503. Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation

Criminal in-
timidation

Explanation—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section

Illustration

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house A is guilty of criminal intimidation

504. Whoever

*(Chapter XXII—Of Criminal Intimidation, Insult
and Annoyance Chapter XXIII—Of Attempts
to Commit Offences)*

object of Divine displeasure A has committed the offence defined in this section

(b) A threatens Z that, unless Z performs a certain act, I will kill one of A's own children under such circumstances that the killing would be believed to render Z an object of Divine displeasure A has committed the offence defined in this section

Word gesture or act intended to insult the modesty of a woman

503. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture or exhibits any object intending that such word or sound shall be heard or that such gesture or object shall be seen by such woman or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both

Misconduct in public by a drunken person

510. Whoever, in a state of intoxication, appears in any public place or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person shall be punished with simple imprisonment for a term which may extend to twenty four hours, or with fine which may extend to ten rupees, or with both

CHAPTER XXIII¹

OF ATTEMPTS TO COMMIT OFFENCES

Punishment for attempting to commit offences punishable with transportation or imprisonment.

511. Whoever attempts to commit an offence punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence -
provision is made to

such

¹ Ch. XXIII applies to offences punishable under ss. 121A, 294A and 304A - see the Indian Penal Code Amendment Act 1870 (2nd of 1870) s. 13
Genl. Acts Vol II

(Chapter XXIII—Of Attempts to Commit Offences.)

such attempt, be punished with transportation or imprisonment of any description provided for the offence, for a term of transportation or imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both

Illustrations

(a) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box, that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.

(b) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this section.

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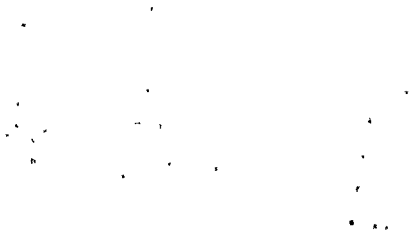
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